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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

Case No. 1:19-cr-227
1:23-cr-37
(LJV)

v.
Plaintiff,

PETER GERACE, JR.,

December 13, 2024

Defendant.

TRANSCRIPT EXCERPT - EXAMINATION OF LOUIS SELVA - DAY 2
BEFORE THE HONORABLE LAWRENCE J. VILARDO
UNITED STATES DISTRICT JUDGE

APPEARANCES: TRINI E. ROSS, UNITED STATES ATTORNEY

BY: JOSEPH M. TRIPI, ESQ.

NICHOLAS T. COOPER, ESQ.

CASEY L. CHALBECK, ESQ.

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For the Defendant

PRESENT:

KAREN A. CHAMPOUX, USA PARALEGAL

BRIAN A. BURNS, FBI SPECIAL AGENT

MARILYN K. HALLIDAY, HSI SPECIAL AGENT

OLIVIA A. PROIA, J.D., PARALEGAL

LAW CLERK:

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Robert H. Jackson Courthouse
2 Niagara Square Buffalo, New York 14202
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09:57AM 1 (Excerpt commenced at 9:57 a.m.)

09:57AM 2 (Jury is present.)

09:57AM 3 **THE COURT:** The record will reflect that all our
09:57AM 4 jurors are present.

09:57AM 5 I remind the witness that he's still under oath.

09:57AM 6 And, Mr. Tripi, you may begin.

09:58AM 7 **MR. TRIPI:** Thank you, Your Honor.

09:58AM 8

09:58AM 9 **L O U I S S E L V A**, having been previously duly called and
09:58AM 10 sworn, continued to testify as follows:

09:58AM 11

09:58AM 12 **(CONT'D) DIRECT EXAMINATION BY MR. TRIPI:**

09:58AM 13 Q. All right. Mr. Selva, I want to basically pick up where
09:58AM 14 we left off, but yesterday I asked you some questions, I want
09:58AM 15 to kind of follow up on one part.

09:58AM 16 When Mr. Bongiovanni -- yesterday, you testified when

09:58AM 17 Mr. Bongiovanni instructed you to advise law enforcement that
09:58AM 18 you were his informant if law enforcement approached you, by
09:58AM 19 that point in time, had you been involved in your marijuana
09:58AM 20 distribution activity since approximately 2008?

09:58AM 21 A. Yes, that's correct.

09:58AM 22 Q. And did Mr. Bongiovanni give you that instruction before
09:58AM 23 your house was searched on August 23rd, 2019?

09:58AM 24 A. Yes.

09:58AM 25 Q. Did he remind you about that again after your house was

09:58AM 1 searched on August 23rd, 2019?

09:58AM 2 A. Yes.

09:58AM 3 Q. And when he was giving you those instructions and those
09:58AM 4 directives, based on conversations and discussions you had
09:58AM 5 had with Mr. Bongiovanni, he knew you were involved in
09:58AM 6 marijuana distribution with others?

09:59AM 7 A. That's correct.

09:59AM 8 Q. Is that a yes?

09:59AM 9 A. Yes, sir.

09:59AM 10 Q. Okay. I want to go backwards in time a little bit to
09:59AM 11 around the year 2001. By that point in time, were you back
09:59AM 12 living in Buffalo, New York, after a stint in Las Vegas?

09:59AM 13 A. Yes.

09:59AM 14 Q. By that point in time in your life, were you going
09:59AM 15 through or about to go through a divorce?

09:59AM 16 A. Around that time, yes. It was starting to proceed.

09:59AM 17 Q. Also around that time in around 2001, did Mr. Bongiovanni
09:59AM 18 return to the Buffalo area after beginning his career as a
09:59AM 19 DEA agent in Florida?

09:59AM 20 A. He did, yes.

09:59AM 21 Q. Okay. By the time Mr. Bongiovanni came back around that
09:59AM 22 2001 timeframe, was he separating from his wife, JoAnn?

09:59AM 23 A. Yes. They were living separately I believe.

10:00AM 24 Q. They were still married?

10:00AM 25 A. They were still married, yes.

10:00AM 1 Q. At that point in time, did Mr. Bongiovanni have a young
10:00AM 2 daughter named Chelsea?

10:00AM 3 A. He did, yes.

10:00AM 4 Q. So, both you and Mr. Bongiovanni are sort of both back in
10:00AM 5 the Buffalo area by 2001. Would it be accurate to say you
10:00AM 6 were both going through something similar in your personal
10:00AM 7 lives?

10:00AM 8 A. Correct, yes.

10:00AM 9 Q. Where were you working in 2001?

10:00AM 10 A. I was a manager in the wireless business for a company
10:00AM 11 called NexTel.

10:00AM 12 Q. Okay.

10:00AM 13 A. And I was also bartending on the weekends.

10:00AM 14 Q. I need you to keep your voice up.

10:00AM 15 A. I'm sorry. I was working two jobs, wireless business and
10:00AM 16 bartending.

10:00AM 17 Q. Where did you bartend?

10:00AM 18 A. At that time, Harry's Harbor.

10:01AM 19 Q. And would Mr. Bongiovanni come visit you while you worked
10:01AM 20 at Harry's Harbor?

10:01AM 21 A. Yes.

10:01AM 22 Q. And was that a restaurant and a bar?

10:01AM 23 A. It was on the water, yes.

10:01AM 24 Q. Did you also work with a young lady there named T.O.?

10:01AM 25 A. Yes.

10:01AM 1 Q. At some point briefly, did you date Ms. T.O.?

10:01AM 2 A. I did, yes.

10:01AM 3 Q. At a later point in life, did you learn that she has
10:01AM 4 dating or had dated Mr. Gerace?

10:01AM 5 A. I did, yes.

10:01AM 6 Q. When Mr. Bongiovanni would come to Harry's Harbor, would
10:01AM 7 you and him socialize?

10:01AM 8 A. I would be -- yes, I would serve him drinks, and we would
10:01AM 9 talk over the bar, yes.

10:01AM 10 Q. When you weren't working, would you go out socially with
10:01AM 11 Mr. Bongiovanni?

10:01AM 12 A. Yes.

10:01AM 13 Q. Did you and he also join the same gym?

10:01AM 14 A. Yes.

10:01AM 15 Q. Would you work out together as well when you weren't both
10:01AM 16 working?

10:01AM 17 A. Yes.

10:02AM 18 Q. Were you being kept apprised by Mr. Bongiovanni as to the
10:02AM 19 nature of his relationship with his wife JoAnn?

10:02AM 20 A. Yes.

10:02AM 21 Q. Eventually, did their separation move towards divorce
10:02AM 22 proceedings?

10:02AM 23 A. It did.

10:02AM 24 Q. Did Mr. Bongiovanni hire a lawyer?

10:02AM 25 A. He did.

10:02AM 1 Q. From your own personal experience going through your own
10:02AM 2 divorce around that time, do lawyers cost money?

10:02AM 3 A. They do.

10:02AM 4 Q. Did you hear Mr. Bongiovanni complain about how much
10:02AM 5 money his divorce was costing him around that timeframe?

10:02AM 6 A. Yes.

10:02AM 7 Q. What were the kinds of things you heard him say?

10:02AM 8 A. Child support, maintenance, he was paying maintenance,
10:02AM 9 alimony, additional expenses. Just the whole cost of it,
10:02AM 10 just how his expenses have risen.

10:02AM 11 Q. Was it a frequent topic of conversation?

10:02AM 12 A. It would be, yes.

10:03AM 13 Q. Did he make -- did he complain at all about the fact that
10:03AM 14 his ex-wife didn't work?

10:03AM 15 A. Yes.

10:03AM 16 Q. Or at that point, the wife he was -- JoAnn, the wife he
10:03AM 17 was divorcing?

10:03AM 18 A. Yes.

10:03AM 19 Q. What kinds of things did he say about that?

10:03AM 20 A. She wasn't contributing. He has to pay maintenance, a
10:03AM 21 higher amount of maintenance or spousal support, whatever
10:03AM 22 it's called. The whole nut was really falling on him. It
10:03AM 23 was --

10:03AM 24 Q. By her not working, or her working very little, did that
10:03AM 25 increase the amount of payments he would have to make?

10:03AM 1 A. Correct.

10:03AM 2 Q. Was that -- was that basically what he was saying to you?

10:03AM 3 A. Yes.

10:03AM 4 Q. Did he complain about the fact that she had a master's

10:03AM 5 degree and didn't work?

10:03AM 6 A. Yes.

10:03AM 7 Q. Was it a source of frustration, based on your

10:03AM 8 interactions with him?

10:03AM 9 A. Yes.

10:03AM 10 Q. All right. I want to get a little more specific about

10:04AM 11 some of the types of things Mr. Bongiovanni talked about

10:04AM 12 paying for during that time period, okay?

10:04AM 13 A. Okay.

10:04AM 14 Q. About how old was his daughter, Chelsea? Was she a

10:04AM 15 little kid?

10:04AM 16 A. Yes, she's the same age as my younger daughter, so she

10:04AM 17 was maybe -- 2001? Four, five.

10:04AM 18 Q. Okay. And how long was he talking about having to pay

10:04AM 19 for her child support until?

10:04AM 20 A. Well, until she was 21 or graduated college.

10:04AM 21 Q. Did he talk about also having to pay for her private

10:04AM 22 school?

10:04AM 23 A. Yes.

10:04AM 24 Q. Did he talk about having to pay for her medical expenses?

10:04AM 25 A. Yes.

10:04AM 1 Q. At a point in Chelsea's life, were you aware that she had
10:04AM 2 some medical issues that required more attention?

10:04AM 3 A. Yes, he had mentioned that, yes. What they were, I don't
10:05AM 4 remember.

10:05AM 5 Q. Do you remember where she was being brought for
10:05AM 6 treatments?

10:05AM 7 A. I don't.

10:05AM 8 Q. Okay. While he's going through that, did Mr. Bongiovanni
10:05AM 9 have other financial obligations that you were aware of,
10:05AM 10 other things he was paying for?

10:05AM 11 A. Yes, he did.

10:05AM 12 Q. What did you know he had to pay for?

10:05AM 13 A. Living expenses, truck payment, expenses for his
10:05AM 14 daughter. I believe at that time he was -- I don't know if
10:05AM 15 it was set in stone yet, the amount that he was paying child
10:05AM 16 support and maintenance, but he was also supporting his
10:05AM 17 soon-to-be ex wife.

10:05AM 18 Q. Did he also have a truck that he had to pay for?

10:05AM 19 A. He did.

10:05AM 20 Q. What kind of truck did he have at that time?

10:05AM 21 A. It was an Escalade.

10:05AM 22 Q. Cadillac?

10:05AM 23 A. Yes.

10:05AM 24 Q. In terms of his social life as a newly-single man, was he
10:06AM 25 going out more?

10:06AM 1 A. He was.

10:06AM 2 Q. Does going out to bars and restaurants cost money, in
10:06AM 3 your life experience?

10:06AM 4 A. It does.

10:06AM 5 Q. While you were going through that, did you go out with
10:06AM 6 him?

10:06AM 7 A. I did.

10:06AM 8 Q. Eventually, did you and Mr. Bongiovanni use cocaine
10:06AM 9 together?

10:06AM 10 A. We have.

10:06AM 11 Q. And did he do that with you while he was a DEA agent?

10:06AM 12 A. He did.

10:06AM 13 **MR. TRIPI:** Ms. Champoux, if we can please pull up
10:06AM 14 Government Exhibit 127? This is in evidence.

10:06AM 15 **BY MR. TRIPI:**

10:06AM 16 Q. Okay. Just for a moment, I'm going to -- I know you see
10:06AM 17 that on the screen. I'm going to ask some questions before
10:06AM 18 we turn to the photo, okay?

10:06AM 19 A. Okay.

10:06AM 20 Q. Mr. Selva?

10:06AM 21 A. Yeah, I'm sorry.

10:06AM 22 Q. Do you know an individual named Tom Doctor?

10:07AM 23 A. Yes.

10:07AM 24 Q. What was Tom Doctor's relationship with Joe Bongiovanni?

10:07AM 25 A. They worked together. Tom was a part of the DEA task

10:07AM 1 force.

10:07AM 2 Q. So he was a member of law enforcement?

10:07AM 3 A. He was.

10:07AM 4 Q. Was he also a Buffalo police detective?

10:07AM 5 A. He was.

10:07AM 6 Q. Did you know specifically if he was a narcotics detective
10:07AM 7 at the time?

10:07AM 8 A. I did.

10:07AM 9 Q. Have you done coke with both Mr. Doctor and
10:07AM 10 Mr. Bongiovanni?

10:07AM 11 A. Yes.

10:07AM 12 Q. Where did you do that with them?

10:07AM 13 A. At a cottage in Angola, and --

10:07AM 14 Q. Is that --

10:07AM 15 A. -- and Cabo San Lucas.

10:07AM 16 Q. We'll get to Cabo, but I want to stick with the cottage
10:07AM 17 for a moment. Who had a cottage?

10:07AM 18 A. Mr. Doctor.

10:07AM 19 Q. And where is Angola?

10:07AM 20 A. It's along the -- it's going south, I believe, it's
10:08AM 21 outside of Buffalo. There's bars and cottages, summer
10:08AM 22 cottages up there, on the water.

10:08AM 23 Q. In proximity to the cottages, is there a bar called
10:08AM 24 Mickey Rats?

10:08AM 25 A. There is, yes.

10:08AM 1 Q. Have you been to Mr. Doctor's cottage?

10:08AM 2 A. A few times, yes.

10:08AM 3 Q. Have you been to the bar Mickey Rats?

10:08AM 4 A. Yes.

10:08AM 5 Q. When you would be at Mr. Doctor's cottage and at the bar
10:08AM 6 Mickey Rats, was that with Mr. Bongiovanni?

10:08AM 7 A. Yes.

10:08AM 8 Q. Was it in that context that at the cottage or in the
10:08AM 9 Mickey Rats area you used cocaine with them both?

10:08AM 10 A. That's correct.

10:08AM 11 Q. Now, looking at Exhibit 127, you're not in that
10:08AM 12 particular photo, correct?

10:08AM 13 A. No, I'm not.

10:08AM 14 Q. Do you see Mr. Bongiovanni?

10:08AM 15 A. I do.

10:08AM 16 Q. Can you tap the screen and show the jury where he's
10:08AM 17 standing? Okay.

10:09AM 18 **MR. TRIPI:** May the record reflect there's a pre-made
10:09AM 19 circle there already on the individual in the back row far
10:09AM 20 right blue shirt, the witness placed a temporary mark on that
10:09AM 21 individual.

10:09AM 22 **BY MR. TRIPI:**

10:09AM 23 Q. Do you see Mr. Doctor? Can you tap the screen and show
10:09AM 24 us where he is?

10:09AM 25 **MR. TRIPI:** May the record reflect there's a pre --

10:09AM 1 there's a blue circle around that individual's head already on
10:09AM 2 the photo, but this witness has marked a temporary red dot on
10:09AM 3 the individual sort of third from the left of the photo
10:09AM 4 wearing no shirt, with a beer bottle up to his lips, and
10:09AM 5 sunglasses on.

10:09AM 6 **THE WITNESS:** Correct.

10:09AM 7 **BY MR. TRIPPI:**

10:09AM 8 Q. Is that a fair description?

10:09AM 9 A. It is.

10:09AM 10 Q. Okay. And do you see Mr. Gerace in that photo?

10:09AM 11 A. I do, yes.

10:09AM 12 Q. Can you tap the screen and show us where he is?

10:10AM 13 **MR. TRIPPI:** May the record reflect he put a temporary
10:10AM 14 mark on the individual, front row, second male from right,
10:10AM 15 standing slightly in front of the individual in the blue shirt
10:10AM 16 that the witness has indicated is Mr. Bongiovanni.

10:10AM 17 **BY MR. TRIPPI:**

10:10AM 18 Q. Is that a good description, do you think?

10:10AM 19 A. Yes.

10:10AM 20 Q. Okay. Were you aware that the defendant, in addition to
10:10AM 21 knowing Mr. Bongiovanni, also knew Tom Doctor?

10:10AM 22 A. Yes.

10:10AM 23 Q. How long had you known Tom Doctor in life?

10:10AM 24 A. Since my 20s, late 20s.

10:10AM 25 Q. So since before -- did you and Mr. Bongiovanni know

10:10AM 1 Mr. Doctor from before he was in law enforcement?

10:10AM 2 A. Yes.

10:10AM 3 Q. On some level, would it be fair to say that you,

10:10AM 4 Mr. Bongiovanni, this defendant, Mr. Doctor, all met in the
10:10AM 5 timeframe of growing up in the Buffalo area?

10:10AM 6 A. Within that timeframe, sure.

10:11AM 7 Q. Okay. All right. Now you indicated Angola was one

10:11AM 8 location where you had used cocaine with Mr. Doctor and

10:11AM 9 Mr. Bongiovanni. We'll talk about it in more detail later.

10:11AM 10 But another location was in Cabo, you said?

10:11AM 11 A. Yes.

10:11AM 12 Q. Cabo San Lucas, is that what you're referencing?

10:11AM 13 A. That's correct.

10:11AM 14 Q. What -- was that in about 2015?

10:11AM 15 A. It was.

10:11AM 16 Q. What was happening there?

10:11AM 17 A. It was Mr. Bongiovanni's wedding. It was a destination
10:11AM 18 wedding.

10:11AM 19 Q. And was Mr. Doctor there?

10:11AM 20 A. He was.

10:11AM 21 Q. Were you there?

10:11AM 22 A. Yes.

10:11AM 23 Q. Was Mr. Bongiovanni there?

10:11AM 24 A. Yes.

10:11AM 25 Q. Was another individual named Tom Napoli there?

10:11AM 1 A. Yes.

10:11AM 2 Q. Okay.

10:11AM 3 **MR. TRIPI:** Ms. Champoux, can we pull up Exhibit 126,
10:11AM 4 please?

10:11AM 5 **BY MR. TRIPI:**

10:12AM 6 Q. Okay. Do you see Exhibit 126 on the screen here? I'm
10:12AM 7 just going to get rid of those red dots that were there.

10:12AM 8 A. Yes.

10:12AM 9 Q. Do you see Mr. Bongiovanni in this photo?

10:12AM 10 A. I do.

10:12AM 11 Q. Can you tap the screen and show us where he is?

10:12AM 12 **MR. TRIPI:** May the record reflect the witness placed
10:12AM 13 a temporary red dot on the male in this picture that is third
10:12AM 14 from the right, moving right to left.

10:12AM 15 **BY MR. TRIPI:**

10:12AM 16 Q. And do you see Tom Napoli in this picture?

10:12AM 17 A. Yes.

10:12AM 18 Q. Can you place a red dot on him?

10:12AM 19 **MR. TRIPI:** May the record reflect the witness placed
10:12AM 20 a temporary red dot sort of right in the middle of the face of
10:12AM 21 an individual he's indicated is Tom Napoli, who the second
10:12AM 22 going right to left in the photo.

10:12AM 23 **BY MR. TRIPI:**

10:12AM 24 Q. Is Mr. Napoli standing right next to Mr. Bongiovanni in
10:12AM 25 that picture?

10:12AM 1 A. Yes.

10:12AM 2 Q. And now in Cabo San Lucas, who were the males present
10:13AM 3 when you guys were using cocaine at the destination wedding?

10:13AM 4 A. Myself, Tom, Mr. Bongiovanni, Tom Doctor, and -- that's
10:13AM 5 it.

10:13AM 6 Q. Okay. So you, Mr. Bongiovanni, Tom Doctor, and Tom
10:13AM 7 Napoli?

10:13AM 8 A. Yes.

10:13AM 9 Q. Is that right?

10:13AM 10 A. That's correct.

10:13AM 11 Q. Is that in a hotel room?

10:13AM 12 A. Yes.

10:13AM 13 Q. Was that sort of before a night of partying and drinking?

10:13AM 14 A. Yes.

10:13AM 15 **MR. TRIPI:** Okay. So can we put those 126 and 127
10:13AM 16 next to each other. Can we zoom in on 127? And can we -- is
10:13AM 17 there any way we can split the screen, or no?

10:13AM 18 Too large? Okay. That's fine. Okay. We'll leave
10:13AM 19 it at that. We can take those down.

10:13AM 20 **BY MR. TRIPI:**

10:14AM 21 Q. By 2004, though, was Mr. Bongiovanni -- obviously, he was
10:14AM 22 still working for the DEA; is that right?

10:14AM 23 A. Yes.

10:14AM 24 Q. Did he start dating someone new?

10:14AM 25 A. That, yes, he did.

10:14AM 1 Q. Okay.

10:14AM 2 A. At that time.

10:14AM 3 **MR. TRIPI:** Actually, could we pull up -- I forgot to
10:14AM 4 do one thing. Pull up 126, 127, and 490A together.

10:14AM 5 Okay. This isn't going to work right now.

10:14AM 6 Let's go to 490 before I move on, sorry about that.

10:14AM 7 They get too small. Can we zoom in on just the photo portion?

10:14AM 8 **BY MR. TRIPI:**

10:14AM 9 Q. In 490A, do you see Tom Napoli?

10:14AM 10 A. I do, yes.

10:14AM 11 Q. Could you tap the screen and show the jury where he is?

10:15AM 12 **MR. TRIPI:** Okay. May the record reflect the witness
10:15AM 13 placed a temporary red mark on the male who is fourth from the
10:15AM 14 left, going left to right in the photo.

10:15AM 15 **BY MR. TRIPI:**

10:15AM 16 Q. Do you see the defendant in that photo?

10:15AM 17 A. Yes.

10:15AM 18 Q. Can you tap the screen and show us where he is?

10:15AM 19 **MR. TRIPI:** May the record reflect the witness has
10:15AM 20 placed a temporary red mark on the defendant, who's about in
10:15AM 21 the middle of the picture next to Mr. Napoli. He's the fourth
10:15AM 22 person as you're going right to left.

10:15AM 23 **BY MR. TRIPI:**

10:15AM 24 Q. Do you see T.O. in that photo?

10:15AM 25 A. I do, yes.

10:15AM 1 Q. Can you tap the screen and show us where she is?

10:15AM 2 **MR. TRIPI:** May the record reflect the witness has
10:15AM 3 placed a temporary red dot on the person who's third, going
10:15AM 4 right to left across the photo.

10:15AM 5 **BY MR. TRIPI:**

10:15AM 6 Q. Do you see Mr. Bongiovanni in that photo?

10:15AM 7 A. Yes.

10:15AM 8 Q. Can you tap the screen and show the jury where he is?

10:15AM 9 **MR. TRIPI:** May the record reflect he's the person
10:15AM 10 standing second from right to left in the photo.

10:15AM 11 **BY MR. TRIPI:**

10:15AM 12 Q. And where is Lindsay, Mr. Bongiovanni's eventual wife?

10:16AM 13 A. She's right next to him.

10:16AM 14 **MR. TRIPI:** Okay. We can take that down.

10:16AM 15 Can we pull up Exhibit 426-1 please?

10:16AM 16 These are all in evidence, Judge.

10:16AM 17 **BY MR. TRIPI:**

10:16AM 18 Q. Okay. Another photo, do you recognize the people in this
10:16AM 19 photo?

10:16AM 20 A. Three of them, yes.

10:16AM 21 Q. Who are the three you recognize?

10:16AM 22 A. Mr. Gerace, Mr. Bongiovanni, and I believe that's
10:16AM 23 Mr. Bongiovanni's ex-girlfriend, M.U., I'm not sure.

10:16AM 24 Q. Okay. Mr. Bongiovanni's on the far left of that photo?

10:16AM 25 A. Yes.

10:16AM 1 Q. Is the defendant on the far right in the green shirt?

10:16AM 2 A. Yes.

10:16AM 3 Q. And is Mr. Bongiovanni and his girlfriend, who you
10:17AM 4 think's name is M.U., next to him in the photo in the white
10:17AM 5 shirt?

10:17AM 6 A. Yes.

10:17AM 7 Q. In about the year 2004, after Mr. Bongiovanni's divorce
10:17AM 8 proceedings were underway, did he start dating a woman named
10:17AM 9 M.U.?

10:17AM 10 A. Yes.

10:17AM 11 Q. Is that the M.U. that you're referencing in the photo?

10:17AM 12 A. It looks like her, yes.

10:17AM 13 Q. It's been a long time, right?

10:17AM 14 A. Yes, it's been a long time.

10:17AM 15 **MR. TRIPI:** Okay. We can take that down.

10:17AM 16 **BY MR. TRIPI:**

10:17AM 17 Q. As the defendant -- withdrawn.

10:17AM 18 As Mr. Bongiovanni started dating M.U., was he spending
10:17AM 19 money on her as well?

10:17AM 20 A. Yes.

10:17AM 21 Q. What was their social life like?

10:17AM 22 A. Dinners. They traveled. A lot of -- lot of gifts, I
10:17AM 23 remember him telling me about.

10:17AM 24 Q. At a point did they get engaged?

10:17AM 25 A. They did.

10:17AM 1 Q. Did Mr. Bongiovanni buy a wedding ring?
10:18AM 2 A. Yes, he did.
10:18AM 3 Q. Ultimately they didn't get married, right?
10:18AM 4 A. No, they called it off.
10:18AM 5 Q. Did he date Ms. M.U. roughly from 2004 to 2009; is that a
10:18AM 6 decent estimate?
10:18AM 7 A. Yeah, about five years.
10:18AM 8 Q. I'll get into this timeline a little bit more in a
10:18AM 9 moment, but jumping ready just slightly, after Ms. M.U., did
10:18AM 10 Mr. Bongiovanni start dating his current wife, Lindsay?
10:18AM 11 A. Not immediately after, but yes, he did, yes.
10:18AM 12 Q. So his next relationship with someone who you can know
10:18AM 13 the name of is -- is his wife Lindsay?
10:18AM 14 A. Yes.
10:18AM 15 Q. At that point, did Mr. Bongiovanni take on any financial
10:18AM 16 obligations related to his then-girlfriend Lindsay in around
10:19AM 17 the year 2009, 2010?
10:19AM 18 A. He did, yes.
10:19AM 19 Q. And what were those?
10:19AM 20 A. He owned a double in North Buffalo on Lovering, and she
10:19AM 21 was actually his tenant. And then when they started dating,
10:19AM 22 she moved in with him. And she had a son. And -- enrolled
10:19AM 23 in nursing school. And her focus was just going to school,
10:19AM 24 and he would take care of all the living expenses.
10:19AM 25 Q. So basically, to sum it up, he started paying all of

10:19AM 1 Lindsay's bills?

10:19AM 2 A. Correct.

10:19AM 3 Q. And her son's living expenses?

10:19AM 4 A. No, I don't believe so. The father paid child support.

10:19AM 5 Q. Did they -- did son live with Bongiovanni?, is the

10:19AM 6 question.

10:19AM 7 A. Yes.

10:19AM 8 Q. Okay.

10:19AM 9 A. Yes.

10:19AM 10 Q. And did he pay for her schooling, as far as you

10:19AM 11 understood it?

10:19AM 12 A. As far as I understand, he was helping her with expenses.

10:19AM 13 Q. Did that include school?

10:20AM 14 A. Yes. At that time. Yes.

10:20AM 15 Q. Okay. When you would interact with Mr. Bongiovanni, as

10:20AM 16 such good friends, I'm sure you talked about a number of

10:20AM 17 different things --

10:20AM 18 A. Correct.

10:20AM 19 Q. -- in life, right?

10:20AM 20 A. Yes.

10:20AM 21 Q. In those discussions that you'd have with him, did he

10:20AM 22 ever talk about the concept of loyalty to his friends?

10:20AM 23 A. He did, yes.

10:20AM 24 Q. Based on your discussions with him, like, what kinds of

10:20AM 25 things did you hear him say about loyalty?

10:20AM 1 A. Just integrity. You know, trust, trustworthy. Worried
10:20AM 2 if people were trying to hit on his girlfriend. That type
10:20AM 3 thing.

10:20AM 4 Q. Did he talk about being loyal to friends?

10:20AM 5 A. Yes.

10:20AM 6 Q. What kinds of things do you remember saying about that?

10:21AM 7 A. Just being there for him. You know, just being honest.
10:21AM 8 Having someone's back.

10:21AM 9 Q. Okay. Is that a phrase he's used with you before?

10:21AM 10 A. Yes.

10:21AM 11 Q. And he's used that phrase, "having your back," in the
10:21AM 12 context of you selling drugs; is that right?

10:21AM 13 **MR. SOEHNLEIN:** Objection.

10:21AM 14 **THE COURT:** Basis?

10:21AM 15 **MR. SOEHNLEIN:** I think it runs afoul of --

10:21AM 16 **MR. TRIPI:** I don't think so at all.

10:21AM 17 **THE COURT:** No. No, no. Overruled.

10:21AM 18 **THE WITNESS:** That's correct.

10:21AM 19 **BY MR. TRIPI:**

10:21AM 20 Q. When he knew you were selling drugs, he said he'd have
10:21AM 21 your back?

10:21AM 22 A. That's correct.

10:21AM 23 Q. Was that him being loyal?

10:21AM 24 A. Yes, sir.

10:21AM 25 Q. That's a different type of integrity than a DEA is

10:21AM 1 supposed to have; would you agree?

10:21AM 2 A. Yes.

10:21AM 3 Q. Okay. So when you say "integrity," you mean loyalty to
10:21AM 4 friends?

10:21AM 5 A. That's what I meant.

10:21AM 6 Q. Were most of Mr. Bongiovanni's friends ones like you that
10:21AM 7 he grew up with in the neighborhood and of Italian descent?

10:22AM 8 A. Yes.

10:22AM 9 **MR. TRIPI:** Judge, I have another area I'm going to
10:22AM 10 go into. I do think I need to come up before I do.

10:22AM 11 **THE COURT:** Okay. Come up.

10:22AM 12 (Sidebar discussion held on the record.)

10:22AM 13 **MR. TRIPI:** So I, Judge, I -- I was going to ask
10:22AM 14 about discussions about race that he had had with
10:22AM 15 Mr. Bongiovanni.

10:22AM 16 **THE COURT:** Race?

10:22AM 17 **MR. TRIPI:** Yeah. You didn't let it in with the
10:22AM 18 Bongiovanni trial because of 401/403 balancing. I think
10:22AM 19 that balance weighs differently here.

10:22AM 20 They have a 302 where Mr. Selva has indicated he's
10:22AM 21 heard Mr. Bongiovanni say the "N" word before in the context
10:22AM 22 of, sort of, complaints about work. And I think it's
10:22AM 23 important here because they chose to cross-examine Anthony
10:22AM 24 Casullo after having this 302 from Selva, they chose to
10:22AM 25 cross-examination Anthony Casullo about whether anyone else he

10:23AM 1 worked with has talked about Mr. Bongiovanni saying the "N"
10:23AM 2 word.

10:23AM 3 And so once they chose to cross-examine someone else
10:23AM 4 about whether the absence of Mr. Bongiovanni using that
10:23AM 5 language, I think it's fair for us to ask a question to
10:23AM 6 another witness who has heard that type of language to balance
10:23AM 7 out that type of cross-examination.

10:23AM 8 And so they had the 302 at -- long ago, while they
10:23AM 9 were crossing Casullo. And so that's why I want to go into
10:23AM 10 this area. I think the whole 401/403 balancing is much
10:23AM 11 different than the Bongiovanni trial.

10:23AM 12 **THE COURT:** Did you -- did you cross-examine
10:23AM 13 Mr. Casullo on that?

10:23AM 14 **MR. SOEHNLEIN:** I don't know, did you? He did the --

10:23AM 15 **MR. FOTI:** I cross-examined him.

10:23AM 16 **THE COURT:** Did you cross-examine him on --

10:23AM 17 **MR. TRIPI:** The absence of hearing him say that
10:23AM 18 anyone else saying reporting him saying the "N" word.

10:23AM 19 **THE COURT:** Whether anyone else reported Bongiovanni
10:23AM 20 saying the "N" word. I don't remember that question.

10:23AM 21 **MR. FOTI:** I -- I don't remember.

10:23AM 22 **MR. COOPER:** Either Kasprzyk or Casullo. A question
10:24AM 23 might have -- it might have been Kasprzyk. But the question
10:24AM 24 was asked, you never heard him use racist language, that
10:24AM 25 100,000 percent was asked on cross-examination, either

10:24AM 1 Kasprzyk or Casullo. And it couldn't -- it couldn't -- I
10:24AM 2 don't think could have been Casullo, because he did hear him
10:24AM 3 use racist language.

10:24AM 4 **MR. FOTI:** I -- I don't remember it. But candidly, I
10:24AM 5 may have asked it in context of having heard him use racist
10:24AM 6 language with law enforcement, within law enforcement.

10:24AM 7 **THE COURT:** So why --

10:24AM 8 **MR. TRIPPI:** Yeah, that's what --

10:24AM 9 **THE COURT:** -- so why wouldn't you have opened the
10:24AM 10 door for him asking this witness whether he ever heard
10:24AM 11 Bongiovanni use the "N" word.

10:24AM 12 **MR. FOTI:** Well, if I did ask it, Judge, I was asking
10:24AM 13 it in terms of whether like -- I was trying to establish that
10:24AM 14 it's not likely that Mr. Bongiovanni would have used that type
10:24AM 15 of language to another -- another member of law enforcement,
10:24AM 16 particularly one that he's not close with.

10:24AM 17 What we're dealing with is a conversation that they
10:24AM 18 would try to introduce related to language that he used with a
10:24AM 19 close friend.

10:24AM 20 **THE COURT:** Well, yeah, but you can cross-examine on
10:24AM 21 it.

10:24AM 22 **MR. SOEHNLEIN:** I'm sorry, Your Honor, just -- my
10:25AM 23 understanding is what they're trying to show is that
10:25AM 24 Bongiovanni has some affinity for people of Italian descent --

10:25AM 25 **THE COURT:** Right.

10:25AM 1 **MR. SOEHNLEIN:** -- and has some desire to protect his
10:25AM 2 friends, and some willingness to not follow DEA protocols or
10:25AM 3 DEA rules. Which would -- which would not be something that
10:25AM 4 Selva would be privy to. He was never in the DEA, he was
10:25AM 5 never an DEA officer, and Kasprzyk and Casullo were. Okay?
10:25AM 6 And that's their import.

10:25AM 7 To the extent that that cross happened, I don't
10:25AM 8 recall it either. But to the extent that it did, the import
10:25AM 9 is here he is at the DEA expressing a view that's
10:25AM 10 diametrically opposed to the law enforcement regime's mission.
10:25AM 11 Okay?

10:25AM 12 **THE COURT:** Okay.

10:25AM 13 **MR. SOEHNLEIN:** Selva is not privy to or part of the
10:25AM 14 DEA. He doesn't know -- I -- I -- even if Bongiovanni's
10:25AM 15 expressing racist views outside the DEA, there's absolutely no
10:26AM 16 evidence that influenced the way he would have interacted
10:26AM 17 within the DEA.

10:26AM 18 The prejudice, however, is clear and extreme, and
10:26AM 19 almost incurable, you know, given the fact that you have
10:26AM 20 people --

10:26AM 21 **THE COURT:** The prejudice -- the prejudice to Gerace
10:26AM 22 is clear? Explain the prejudice to Gerace.

10:26AM 23 **MR. SOEHNLEIN:** The prejudice to Gerace comes from
10:26AM 24 the fact that they're trying to -- the entire -- the entirety
10:26AM 25 of their direct exam on Wednesday sought to establish the

1 close relationship between Bongiovanni and Gerace, and that's
2 something that's been going on throughout the trial.

3 The very first exhibit they introduced was a
4 photograph from 2004 with Bongiovanni and Gerace, that's the
5 theme, that's part of the case. They want the jurors to
6 believe that, in essence, Bongiovanni and Gerace are one and
7 the same and that, in particular, the racist comment from John
8 Bongiovanni, it -- not only is it highly prejudicial, but we
9 know that it's simply -- it's not true.

10 There's no evidence that Gerace has used racist
11 language. And that's certainly not relevant to any of the
12 charges that he faces in this indictment.

13 And, so, I think the prejudice is very, very high,
14 while the probative value is extremely low.

15 **MR. COOPER:** Judge, can I jump in on that?

16 So the reason that the cross was done, the question
17 was asked did you ever hear Bongiovanni use racist language,
18 was to attack Casullo's credibility. That's why that question
19 gets asked. Because Tony Casullo testified he said these
20 racist things to me.

21 So to cut against Casullo's credibility, they say to
22 a different witness: You never heard him say racist language,
23 did you? And that witness said no.

24 The government, I believe, has the ability -- well, I
25 know we have the ability, and I believe we have the right to

1 rebut that cross-examine that they chose to go down that road
2 by saying to a different witness: You've heard him say racist
3 stuff before, right? And that witness will say yes.

4 So they chose to say Tony Casullo's not credible
5 because nobody else ever heard Bongiovanni -- that creates an
6 impression in the jury's mind.

7 **THE COURT:** You get to ask him simply: Have you ever
8 heard him use the "N" word? That's all.

9 **MR. SOEHNLEIN:** Your Honor, may I make a suggestion?

10 **MR. TRIPI:** Can I just ask one followup, Eric? Can I
11 contextualize it, because it was a very specific context.

12 It was Bongiovanni sort of complaining about
13 situations at work. So have you heard him about complain
14 about situations at work, like an arrest situation, you know,
15 and then he would get kind of elevated and be like that.

16 **THE COURT:** What's your suggestion?

17 **MR. SOEHNLEIN:** Can he just ask him have you ever
18 heard him use language referring to race, rather than the
19 specific word.

20 **MR. TRIPI:** That's too watered down. It's not
21 realistic.

22 **MR. COOPER:** The corroboration comes -- and the
23 corroboration comes from the word that was used, right?

24 So Tony Casullo says he used the "N" word.

25 **THE COURT:** I think you can ask that. I think you

10:28AM 1 can ask that. And you can ask it in the context for one
10:28AM 2 question.

10:28AM 3 **MR. TRIPI:** Yeah, I got you.

10:28AM 4 **THE COURT:** One question.

10:28AM 5 (End of sidebar discussion.)

10:28AM 6 **MR. TRIPI:** Can we go up one more second, Judge? I
10:29AM 7 forgot.

10:29AM 8 (Sidebar discussion held on the record.)

10:29AM 9 **MR. TRIPI:** Judge, I would even ask for you to give a
10:29AM 10 limiting instruction, that it's only as to Mr. Bongiovanni's
10:29AM 11 state of mind just to further cabin the -- any prejudice, if
10:29AM 12 they want.

10:29AM 13 **THE COURT:** What do you mean?

10:29AM 14 **MR. TRIPI:** If Mr. Bongiovanni has ever said the "N"
10:29AM 15 word, and the answer is yes, you can give a limiting
10:29AM 16 instruction and say that evidence is only admitted as it
10:29AM 17 relates to Mr. Bongiovanni's state of mind, it's not -- you
10:29AM 18 know, if they want something like that.

10:29AM 19 **THE COURT:** You can think about it.

10:29AM 20 **MR. TRIPI:** Yeah, I just thought of it.

10:29AM 21 **MR. SOEHNLEIN:** Well, I -- but I want to think about
10:29AM 22 it right now. When would you give the limiting instruction if
10:29AM 23 we ask for it? Would you give it during the charge or you
10:29AM 24 would give it --

10:29AM 25 **THE COURT:** Right now.

10:29AM 1 **MR. SOEHNLEIN:** Can we just have one second then?

10:29AM 2 **THE COURT:** Yeah.

10:29AM 3 **MR. TRIPI:** And, Judge, obviously it would still be
10:29AM 4 argued that him stating it corroborates Casullo, but in terms
10:29AM 5 of --

10:29AM 6 **THE COURT:** I understand. But this relates only to
10:29AM 7 Mr. Bongiovanni and Mr. Bongiovanni's state of mind, not
10:30AM 8 Mr. Gerace. It has nothing to do with Mr. Gerace.

10:30AM 9 **MR. COOPER:** That's fine.

10:30AM 10 **MR. SOEHNLEIN:** We don't want it.

10:30AM 11 **THE COURT:** You don't want it? Okay.

10:30AM 12 (End of sidebar discussion.)

10:30AM 13 **MR. TRIPI:** I thought we broke the huddle early,
10:30AM 14 Judge.

10:30AM 15 **BY MR. TRIPI:**

10:30AM 16 Q. Okay. I want to just ask you a couple more questions
10:30AM 17 about, sort of, things you discussed with Mr. Bongiovanni.
10:30AM 18 Just limit your answers to yes or no, okay?

10:30AM 19 A. Okay.

10:30AM 20 Q. When you would talk with Bongiovanni, were there times
10:30AM 21 when he would tell stories about work and express frustration
10:30AM 22 about people he's arrested?

10:30AM 23 A. Yes.

10:30AM 24 Q. In that context, have you heard him use the "N" word to
10:30AM 25 describe black people?

10:30AM 1 A. Not that I recall.

10:31AM 2 Q. Have you heard him use the "N" word to describe black
10:31AM 3 people?

10:31AM 4 A. Not that I recall, no.

10:31AM 5 **MR. TRIPI:** Okay. Give me a moment.

10:32AM 6 **MR. FOTI:** Judge, can we approach quickly?

10:32AM 7 **THE COURT:** Sure, come on up.

10:32AM 8 (Sidebar discussion held on the record.)

10:32AM 9 **MR. FOTI:** I think if a witness says I don't recall
10:32AM 10 that, it's not the same as saying I don't remember whether he
10:32AM 11 did or didn't.

10:32AM 12 I think they're about to refresh recollection on
10:32AM 13 something that's extremely prejudicial. The answer he gave
10:32AM 14 was a no.

10:32AM 15 **MR. TRIPI:** It was I don't recall that. And he
10:32AM 16 said -- he said it in a 302 in August, August 18th, 2024.

10:32AM 17 And he said -- Selva stated Bongiovanni used racial
10:32AM 18 slurs in conversation with Selva.

10:32AM 19 **THE COURT:** Racial slurs?

10:32AM 20 **MR. TRIPI:** And specifically referred to black
10:32AM 21 individuals as "N" and Hispanic as "S." And he stated those
10:32AM 22 slurs -- bottom of 1 and going to page 2.

10:33AM 23 **MR. SOEHNLEIN:** What's the date on that one?

10:33AM 24 **MR. TRIPI:** August 18th, it's A.I.

10:33AM 25 **MR. SOEHNLEIN:** A.I?

10:33AM 1 **THE COURT:** Have you heard him use the "N" word to
10:33AM 2 describe black people? Not that I recall, no.

10:33AM 3 **MR. TRIPI:** All right. Well, now I'm going to
10:33AM 4 impeach him under 607. I can impeach him with an oral
10:33AM 5 statement. It doesn't come in substantively like a transcript
10:33AM 6 would, but I can impeach him with an inconsistent statement.

10:33AM 7 **THE COURT:** What part of it is inconsistent?

10:34AM 8 **MR. TRIPI:** His inconsistent statement would be he
10:34AM 9 has heard it, and he has heard him say it. And so --

10:34AM 10 **THE COURT:** What -- where is the prior inconsistent
10:34AM 11 statement? (Inaudible).

10:34AM 12 **MR. TRIPI:** Yeah. When you -- when you deny knowing
10:34AM 13 something --

10:34AM 14 **THE COURT:** Right.

10:34AM 15 **MR. TRIPI:** -- that's an inconsistent statement.

10:34AM 16 **THE COURT:** You can ask him did you tell the police,
10:34AM 17 and if he says no, you're stuck with it.

10:34AM 18 **MR. TRIPI:** I'm going to ask him more questions
10:34AM 19 around this for sure.

10:34AM 20 **THE COURT:** You're stuck with it.

10:34AM 21 **MR. TRIPI:** Yeah.

10:34AM 22 (End of sidebar discussion.)

10:34AM 23 **BY MR. TRIPI:**

10:34AM 24 Q. Now, Mr. Selva, you've testified in two prior proceedings
10:34AM 25 this year, correct?

10:34AM 1 A. Yes, sir.

10:34AM 2 Q. And in between those two prior proceedings, you also sat
10:34AM 3 down with the FBI, Special Agent Brian Burns, and others
10:34AM 4 including myself, correct?

10:34AM 5 A. Correct.

10:34AM 6 Q. And during those meetings, you were being asked questions
10:34AM 7 about Mr. Bongiovanni; is that right?

10:34AM 8 A. That's correct.

10:34AM 9 Q. And did you tell the FBI in one of those meetings that
10:35AM 10 Mr. Bongiovanni used the "N" word?

10:35AM 11 **MR. SOHNLEIN:** Objection.

10:35AM 12 **THE COURT:** Did you tell them that?

10:35AM 13 **THE WITNESS:** Yes, I must have, yes.

10:35AM 14 **THE COURT:** Well, why do you say you must have?

10:35AM 15 **THE WITNESS:** Because I do remember being asked the
10:35AM 16 question, and I did say yes.

10:35AM 17 **BY MR. TRIPPI:**

10:35AM 18 Q. So why, a minute ago, when I asked you did you say no?

10:35AM 19 A. I forgot the timeframe. I --

10:35AM 20 Q. No. I asked you ever. Why did you say no?

10:35AM 21 A. I don't know. I was wrong.

10:35AM 22 Q. Were you being honest a minute ago? Or were you playing
10:35AM 23 games?

10:35AM 24 **THE COURT:** Let's move on. Let's move on. Let's
10:35AM 25 move on.

10:35AM 1 **THE WITNESS:** No, I made a mistake.

10:35AM 2 **THE COURT:** Next question.

10:35AM 3 **MR. TRIPI:** All right. So, I need a clear answer to
10:35AM 4 that, I don't think I got one.

10:35AM 5 **THE COURT:** No, you got the answer, Mr. Tripi. Let's
10:35AM 6 move on. We're gonna go to another area.

10:35AM 7 Next question.

10:35AM 8 **BY MR. TRIPI:**

10:36AM 9 Q. All right. Does Mr. Gerace own a bar you're aware of?

10:36AM 10 A. Yes.

10:36AM 11 Q. What bar is that?

10:36AM 12 A. Pharaoh's nightclub.

10:36AM 13 Q. What kind of bar is that?

10:36AM 14 A. It's a strip club.

10:36AM 15 Q. Have you been there with Mr. Bongiovanni?

10:36AM 16 A. I have.

10:36AM 17 Q. During what timeframe?

10:36AM 18 A. Right when Mr. Gerace had taken it back over. I believe
10:36AM 19 there was a falling out he had, and he was now the sole
10:36AM 20 owner.

10:36AM 21 Q. Was that in the 2014 timeframe?

10:36AM 22 A. I believe so. 2014, '15.

10:36AM 23 Q. Do you remember specifically?

10:36AM 24 A. I don't, but it was that timeframe.

10:37AM 25 **MR. TRIPI:** For the witness only, can we pull up

10:37AM 1 Exhibit 3540U. And I'm going to direct his attention to
10:37AM 2 page 5.

10:37AM 3 **BY MR. TRIPI:**

10:37AM 4 Q. I'm going to see if we can refresh your recollection as
10:37AM 5 to the timeframe, okay?

10:37AM 6 A. Okay.

10:37AM 7 Q. Read that to yourself, and when you're done let me know
10:37AM 8 you've read it.

10:37AM 9 **MR. TRIPI:** Can we zoom in on that, Ms. Champoux, so
10:37AM 10 it's larger for him, please?

10:37AM 11 **THE WITNESS:** Okay.

10:37AM 12 **BY MR. TRIPI:**

10:37AM 13 Q. Did that refresh your recollection as to the timeframe?

10:37AM 14 A. Yes, sir.

10:37AM 15 Q. What was the approximate timeframe when you went to
10:37AM 16 Pharaoh's with Mr. Bongiovanni?

10:38AM 17 A. It was around 2013, 2014.

10:38AM 18 Q. And that's an estimate?

10:38AM 19 A. That's an estimate, yes.

10:38AM 20 Q. How many times did you go there?

10:38AM 21 A. Twice.

10:38AM 22 Q. On one of those occasions, was there an interaction
10:38AM 23 between Mr. Bongiovanni and Mr. Gerace?

10:38AM 24 A. Yes.

10:38AM 25 Q. What was that? Describe that interaction for the jury.

10:38AM 1 A. We had went to Pharaoh's. We were at the bar having a
10:38AM 2 drink. Mr. Gerace came in, he said hello, and then they
10:38AM 3 stepped aside and had a two- to three-minute, five-minute
10:38AM 4 conversation, whatever it was.

10:38AM 5 Q. Did they -- was that a one-on-one conversation between
10:38AM 6 Mr. Bongiovanni and Gerace?

10:38AM 7 A. Yes, they just talked privately.

10:38AM 8 Q. That was my next question. Did it appear to be a private
10:38AM 9 conversation between the two of them?

10:38AM 10 A. It did.

10:38AM 11 Q. Were you able to hear what they were saying?

10:39AM 12 A. No, it was loud in there and I was not --

10:39AM 13 Q. How far did they step away from you?

10:39AM 14 A. I was in the middle. To the right, maybe.

10:39AM 15 Q. Did they go to, like, the end of the bar?

10:39AM 16 A. To the end of the bar.

10:39AM 17 Q. When Mr. Bongiovanni -- did he come back over to you
10:39AM 18 then?

10:39AM 19 A. He did.

10:39AM 20 Q. Did he tell you anything about what he and Mr. Gerace
10:39AM 21 discussed?

10:39AM 22 A. No. No.

10:39AM 23 Q. Now, your phone number up until the day that your house
10:39AM 24 was searched on August 23rd, 2019, was it 716-903-1654?

10:39AM 25 A. Yes.

10:39AM 1 Q. Okay.

10:39AM 2 **MR. TRIPI:** Ms. Champoux, can we please pull up
10:39AM 3 Government Exhibit 358, please.

10:39AM 4 There's going to be some phone records I want you to
10:39AM 5 look at.

10:40AM 6 **THE WITNESS:** Okay.

10:40AM 7 **MR. TRIPI:** Can you expand it so I can see that
10:40AM 8 better? Can we move on to Exhibit 359? Sorry.

10:40AM 9 Okay. Within Exhibit 359, can you open the PDF
10:40AM 10 labeled billed calls 2012, 2013.

10:40AM 11 **BY MR. TRIPI:**

10:40AM 12 Q. All right. First I'd like to go to -- here we go.

10:40AM 13 Do you see on -- I'm showing you page 911 at the bottom
10:40AM 14 of the screen, it might be 912.

10:40AM 15 Do you see that's a Verizon wireless detail for Peter
10:40AM 16 Gerace, 716-725-1931?

10:40AM 17 A. Yes.

10:40AM 18 Q. Okay. Do you see above that, May 24th?

10:41AM 19 A. Yes.

10:41AM 20 Q. Is that your phone number, 716-903-1654?

10:41AM 21 A. Yes.

10:41AM 22 Q. And do you see incoming call?

10:41AM 23 A. Yes.

10:41AM 24 Q. Now, you've worked in the wireless industry yourself,
10:41AM 25 correct?

10:41AM 1 A. Correct.

10:41AM 2 Q. You're familiar with billed call records?

10:41AM 3 A. Correct.

10:41AM 4 Q. So does that indicate there was an incoming call from

10:41AM 5 Mr. Gerace to you on May 24th in the year of 2013?

10:41AM 6 A. Yes.

10:41AM 7 Q. Okay. I'd like to go through some, this was on page 911

10:41AM 8 of the exhibit. I'd like to go to page 1102.

10:41AM 9 Okay. I'd like to direct your attention to an entry on

10:41AM 10 October 1st at 9:07 a.m., right here.

10:42AM 11 A. Yes.

10:42AM 12 Q. Does that indicate that at 9:07 a.m. you called

10:42AM 13 Mr. Gerace for 11 minutes?

10:42AM 14 A. Yes.

10:42AM 15 Q. I think I misspoke on the prior one. They're Peter's

10:42AM 16 records. Where it says "incoming," that would mean you

10:42AM 17 called him, right?

10:42AM 18 A. Yes.

10:42AM 19 Q. Okay. And then when it doesn't say incoming, that would

10:42AM 20 be an indication that he called you?

10:42AM 21 A. Correct.

10:42AM 22 Q. Okay. So I think I misspoke on the prior one.

10:42AM 23 But on this entry, October 1st, 9:07 a.m. Was that your

10:42AM 24 phone number, 716-903-1654?

10:42AM 25 A. Yes, it is.

10:42AM 1 Q. Does that indicate he made an outgoing call to you for
10:43AM 2 11 minutes?

10:43AM 3 A. Yes.

10:43AM 4 Q. I'd like to move down to 9:24 that same day. Do you see
10:43AM 5 that there?

10:43AM 6 A. Yes.

10:43AM 7 Q. Is that another call for five minutes?

10:43AM 8 A. Yes.

10:43AM 9 Q. Is that, again, from your number to Mr. Gerace?

10:43AM 10 A. Yes.

10:43AM 11 Q. Okay. Let's go to page 1104. And I'm looking at calls
10:43AM 12 at 6:34, 6:42, and 6:56.

10:43AM 13 So beginning the 6:32 p.m. call --

10:43AM 14 **MR. TRIPI:** The one right above that, actually. Next
10:43AM 15 one down. Sorry, you were right.

10:43AM 16 **BY MR. TRIPI:**

10:43AM 17 Q. 6:34 p.m., is that another indication of your phone
10:43AM 18 number being called by Mr. Gerace?

10:43AM 19 A. Yes.

10:43AM 20 Q. Okay. 6:42 p.m., more call activity, this time you
10:44AM 21 calling Mr. Gerace?

10:44AM 22 A. Yes.

10:44AM 23 Q. Let's go to 6:56 p.m. Is that an outgoing call from
10:44AM 24 Mr. Gerace to you?

10:44AM 25 A. Yes.

10:44AM 1 Q. Let's go to October 9th. It's going to be page 1122 at
10:44AM 2 12:59 p.m. Would that be an outgoing call from Mr. Gerace to
10:44AM 3 you?

10:44AM 4 A. Yes.

10:44AM 5 Q. Let's go to 3:07 p.m. that same day. Would that be
10:44AM 6 another outgoing call from Mr. Gerace to you?

10:44AM 7 A. Yes.

10:44AM 8 Q. Let's go to 3:40 p.m. that same day. Now on page 1123 of
10:44AM 9 the exhibit, were there two sort of back-to-back calls at
10:44AM 10 3:40 and 3:43 both incoming to Mr. Gerace from you?

10:45AM 11 A. There were, yes.

10:45AM 12 Q. Let's go to page 1131, and a call October 15th at
10:45AM 13 8:47 a.m. Is that an outgoing call from you to Mr. Gerace?

10:45AM 14 A. Yes.

10:45AM 15 Q. Let's go to 9:13 a.m. Outgoing call from Mr. Gerace to
10:45AM 16 you?

10:45AM 17 A. Yes.

10:45AM 18 **MR. TRIPI:** Let's go to page 1132, please.

10:45AM 19 **BY MR. TRIPI:**

10:45AM 20 Q. Is there another call at 5:45 p.m.?

10:45AM 21 A. Yes, there is.

10:45AM 22 Q. Is that a call from Mr. Gerace to you for about two
10:45AM 23 minutes?

10:45AM 24 A. Yes.

10:45AM 25 Q. Let's go to page -- October 16th at 9:35 a.m., page 1133.

10:46AM 1 Is that an indication of a call from Mr. Gerace to you?

10:46AM 2 A. Yes.

10:46AM 3 Q. Let's go to page 1134 beginning at 4:52 p.m. on
10:46AM 4 October 16th. October 16th from 4:52 p.m. to the call 5:53.

10:46AM 5 Is there a series of incoming calls from you to Mr. Gerace?

10:46AM 6 A. Yes.

10:46AM 7 Q. How many of them do you see there?

10:46AM 8 A. Five.

10:46AM 9 Q. Okay. And then we see page 1134, October 17th at
10:46AM 10 9:37 a.m. Is that an incoming call from Mr. Gerace to you on
10:47AM 11 that date and time?

10:47AM 12 A. Yes.

10:47AM 13 **MR. TRIPI:** Ms. Champoux, can we go to the 2014, 2015
10:47AM 14 PDF of this exhibit. And can we go to page 573. And if we
10:47AM 15 can go to 11/14/2014 at 6:28 p.m.

10:47AM 16 **BY MR. TRIPI:**

10:47AM 17 Q. Is there an incoming call on that date from you to
10:47AM 18 Mr. Gerace for about two minutes?

10:47AM 19 A. Yes.

10:47AM 20 Q. Okay. Now, during -- during that timeframe, were you
10:48AM 21 involved in marijuana distribution activity?

10:48AM 22 A. Yes.

10:48AM 23 Q. At some point, did the defendant's younger brother,
10:48AM 24 Anthony Gerace, become involved with you and the individuals
10:48AM 25 you were selling marijuana with?

10:48AM 1 A. Yes.

10:48AM 2 **MR. TRIPI:** You can take that down.

10:48AM 3 **BY MR. TRIPI:**

10:48AM 4 Q. What's the defendant's younger brother's name who became
10:48AM 5 involved in the group you were involved in?

10:48AM 6 A. Anthony.

10:48AM 7 Q. Sometime around -- I want to go backwards a little bit.

10:49AM 8 Sometime around 2009 -- withdrawn.

10:49AM 9 Was there ever a time when Mr. Bongiovanni, while a DEA
10:49AM 10 agent and while he knew you were involved in marijuana, told
10:49AM 11 you about a situation where he helped this defendant out with
10:49AM 12 U.S. Probation?

10:49AM 13 A. Yes.

10:49AM 14 Q. What did Mr. Bongiovanni say?

10:49AM 15 **MR. SOEHNLEIN:** Objection.

10:49AM 16 **THE COURT:** Didn't we argue this?

10:49AM 17 **MR. TRIPI:** Yeah, do you want to --

10:49AM 18 **THE COURT:** Yeah, come on up.

10:49AM 19 (Sidebar discussion held on the record.)

10:49AM 20 **MR. TRIPI:** Can I just chime in? The thing that was
10:49AM 21 held out, and sorry to bring this up earlier, the thing that
10:49AM 22 was held out and sort of left open was the unavailability, and
10:49AM 23 you had asked us to follow up with Mr. Singer and Mr. MacKay,
10:50AM 24 and we did that. And then we emailed chambers yesterday that
10:50AM 25 Bongiovanni would, in fact, invoke the Fifth Amendment if

10:50AM 1 called at this trial. And so that was, sort of, out there
10:50AM 2 still.

10:50AM 3 And so in my mind, Judge, once I had that, I thought
10:50AM 4 I was okay to proceed. So I apologize for not flagging it for
10:50AM 5 these guys.

10:50AM 6 **THE COURT:** Me, too. I remember seeing the email,
10:50AM 7 and so that's --

10:50AM 8 **MR. TRIPI:** Yeah.

10:50AM 9 **THE COURT:** -- what I thought.

10:50AM 10 **MR. SOEHNLEIN:** And so, I mean, that's part of it.
10:50AM 11 Part of it, too, is we're preserving our record around all
10:50AM 12 these things.

10:50AM 13 **THE COURT:** Of course. No, no, no, of course. I
10:50AM 14 just was forgetting that we had put on the record that he's
10:50AM 15 unavailable. But you're right, I did say only if he's
10:50AM 16 unavailable.

10:50AM 17 **MR. SOEHNLEIN:** And now candid --

10:50AM 18 **THE COURT:** Do you have a further objection? If he's
10:50AM 19 unavailable, do you have a further objection?

10:50AM 20 **MR. FOTI:** Yes, Judge. The rules, the Federal Rules
10:50AM 21 of Evidence I think were just amended December 1st, and it was
10:50AM 22 actually the unavailable -- a declarant from an unavailable
10:50AM 23 witness was amended, I think that the Court's still supposed
10:51AM 24 to consider the totality of the circumstances, including
10:51AM 25 whether there's any corroboration related to it.

10:51AM 1 I -- I -- I think that it's not dispositive of
10:51AM 2 whether it's a statement against penal interests if the
10:51AM 3 witness is unavailable, there's still a sort of general
10:51AM 4 consideration of whether it's fair to let the evidence in.

10:51AM 5 **MR. SOEHNLEIN:** And, Your Honor --

10:51AM 6 **MR. COOPER:** Judge, there's tons of corroboration
10:51AM 7 here. Bongiovanni calls Pete Lepiane. Pete has written
10:51AM 8 reports about conversations saying Bongiovanni is interceding
10:51AM 9 on Gerace's behalf saying he's a source of information.
10:51AM 10 Bongiovanni writes a DEA-6 report corroborating this testimony
10:51AM 11 saying Peter Gerace called me and told me he got in trouble
10:51AM 12 with probation.

10:51AM 13 There's a world of corroboration.

10:51AM 14 **THE COURT:** Tell me -- tell me, the rule has been
10:52AM 15 amended. Tell me about the amendment.

10:52AM 16 **MR. FOTI:** So, I -- if you -- Judge, I can pull up
10:52AM 17 the change. But Peter Lepiane also said that nothing
10:52AM 18 Mr. Bongiovanni did had any impact.

10:52AM 19 **THE COURT:** Tell me -- tell me rule.

10:52AM 20 **MR. FOTI:** I should have -- I should have had it
10:52AM 21 ready knowing that this was going to come up, but I -- if you
10:52AM 22 give me one second, I'll --

10:52AM 23 **MR. TRIPI:** While he's looking for that.

10:52AM 24 **THE COURT:** Why don't we take a break.

10:52AM 25 **MR. TRIPI:** Sure.

10:52AM 1 **THE COURT:** I've got the 11:00. Look at it, we'll
10:52AM 2 come back in a few minutes.

10:52AM 3 **MR. FOTI:** Yeah.

10:52AM 4 **THE COURT:** It's almost 11:00, take the break and
10:52AM 5 come back.

10:52AM 6 **MR. TRIPI:** Sounds good.

10:52AM 7 **MR. FOTI:** Thanks.

10:52AM 8 (Sidebar discussion ended.)

10:52AM 9 **THE COURT:** Okay. Folks, we have this legal matter
10:52AM 10 we need to handle, and I also have another matter that I'm
10:52AM 11 doing by Zoom at 11:00, so we're going to take a break now.
10:53AM 12 Probably about 20 minutes or so.

10:53AM 13 Please remember my instructions. Don't talk about
10:53AM 14 the case, even with each other, and don't make up your mind.

10:53AM 15 And we'll see you back here shortly after 11.

10:53AM 16 (Jury excused at 10:53 a.m.)

10:54AM 17 **THE COURT:** Okay. Mr. Selva, again, you're not to
10:54AM 18 talk to anybody about your testimony during the break. Okay?
10:54AM 19 Except your lawyer.

10:54AM 20 Anything we need to do before we break?

10:54AM 21 **MR. TRIPI:** No, Judge.

10:54AM 22 **THE COURT:** Anything from the defense?

10:54AM 23 **MR. FOTI:** No.

10:54AM 24 **THE CLERK:** All rise.

10:54AM 25 (Off the record at 10:54 a.m.)

11:20AM 1 (Back on the record at 11:20 a.m.)
11:20AM 2 (Jury not present.)
11:20AM 3 **THE CLERK:** All rise.
11:20AM 4 **THE COURT:** Please be seated.
11:20AM 5 **THE CLERK:** We are back on the record for the
11:20AM 6 continuation of the jury trial in case numbers 19-cr-227 and
11:20AM 7 23-cr-37, United States of America versus Peter Gerace Jr.
11:20AM 8 All counsel and parties are present.
11:20AM 9 **THE COURT:** Okay. Nothing's ever easy. That
11:20AM 10 telephone conference or Zoom conference took longer than I
11:20AM 11 expected, and I apologize.
11:20AM 12 So on the impeachment with the prior inconsistent
11:20AM 13 statement that was not under oath, I think I need to give the
11:20AM 14 jury a curative instruction on that that it's not being
11:20AM 15 admitted for the truth of the matter, it's being admitted only
11:20AM 16 as to the witness's credibility. Because it was not under
11:20AM 17 oath.
11:20AM 18 If it's under oath, it can be admitted substantively.
11:20AM 19 If it's not under oath, it can only be admitted to impeach.
11:20AM 20 **MR. TRIPI:** Which -- which statement are we talking
11:20AM 21 about, Judge?
11:20AM 22 **THE COURT:** We're talking about the "N" and "S."
11:21AM 23 Bongiovanni's "N" and "S."
11:21AM 24 **MR. TRIPI:** Judge, I thought by the time we got there
11:21AM 25 that that -- that that was -- his recollection was refreshed

11:21AM 1 essentially.

11:21AM 2 **THE COURT:** No, I don't think so. I think you
11:21AM 3 impeached him with a prior inconsistent statement, and the
11:21AM 4 inconsistent statement was not under oath. And so under --
11:21AM 5 under rule -- whatever it is, 80 -- 801, if it's under oath,
11:21AM 6 it comes in substantively, if it's not under oath it comes in
11:21AM 7 as -- and he may have -- and he may have said in addition to
11:21AM 8 that, that -- he may have changed his answer to the -- to the
11:21AM 9 question.

11:21AM 10 **MR. TRIPI:** That's my understanding of the testimony.

11:21AM 11 **THE COURT:** Fine.

11:21AM 12 **MR. TRIPI:** Okay.

11:21AM 13 **THE COURT:** But I do think that we do the curative
11:21AM 14 instruction.

11:21AM 15 **MR. FOTI:** Yeah. And I think he -- I could be wrong,
11:21AM 16 I think he said yes, I remember being asked -- me talking
11:21AM 17 about that. I don't think he changed, I think it was just
11:21AM 18 strictly in context of impeachment.

11:22AM 19 **THE COURT:** No, no.

11:22AM 20 **MR. TRIPI:** I do want an opportunity then, I
11:22AM 21 understand the curative instruction. But if there's some
11:22AM 22 ambiguity, I want an opportunity to circle back. Because now
11:22AM 23 he's acknowledged he said it in a prior situation, I want to
11:22AM 24 now make it clear that that's his testimony in court if that
11:22AM 25 has now refreshed his recollection. I thought that that

11:22AM 1 became -- it became bifurcated during the exchange, and so I
11:22AM 2 don't want to run afoul of the Court telling me to move on,
11:22AM 3 but if there's some ambiguity there, I want it clear so that
11:22AM 4 when Mr. Cooper is arguing that it also impacts the
11:22AM 5 credibility of another witness --

11:22AM 6 **THE COURT:** Let's take a look.

11:22AM 7 **MR. TRIPI:** Okay.

11:22AM 8 **THE COURT:** Let's take a look.

11:23AM 9 Annie, do you know where it is?

11:23AM 10 **MR. TRIPI:** That exchange with Mr. Selva after the
11:23AM 11 conference at the bench regarding the N word.

11:23AM 12 **THE COURT:** Okay. I got it. Yeah, he does say I was
11:23AM 13 wrong.

11:23AM 14 **MR. TRIPI:** Mr. Cooper is free to then make that
11:23AM 15 argument as it relates to credibility that Mr. Bongiovanni has
11:23AM 16 said it before.

11:23AM 17 **THE COURT:** I think that's probably right, but so
11:23AM 18 think I still give the curative instruction.

11:23AM 19 **MR. TRIPI:** I think that's fine, Judge. But I don't
11:23AM 20 want you to then --

11:23AM 21 **THE COURT:** No, I'm not.

11:23AM 22 **MR. TRIPI:** -- hamstring Mr. Cooper when he's trying
11:23AM 23 to argue it later.

11:23AM 24 **THE COURT:** I'm not going to preclude him. And I
11:23AM 25 think the defense can argue that he was equivocal or whatever,

11:23AM 1 and the jury can remember what it remembers.

11:23AM 2 **MR. TRIPI:** That's fine.

11:23AM 3 **THE COURT:** But I do think I need to give the
11:23AM 4 curative instruction, because the impeachment with a prior
11:23AM 5 inconsistent statement was with a prior inconsistent statement
11:23AM 6 that was not under oath. Okay?

11:24AM 7 **MR. TRIPI:** I understand that.

11:24AM 8 **THE COURT:** Okay. Good.

11:24AM 9 Mr. Foti, did you find the new rule?

11:24AM 10 **MR. FOTI:** Yeah. Yes, Judge. And I apologize for
11:24AM 11 not having it ready earlier.

11:24AM 12 **THE COURT:** No, that's okay.

11:24AM 13 **MR. FOTI:** I said two days ago when something goes
11:24AM 14 wrong, it's me. And that's once again the case.

11:24AM 15 **MR. SOEHNLEIN:** That's not true, Judge.

11:24AM 16 **MR. FOTI:** Rule 804(b)(3)(B) --

11:24AM 17 **THE COURT:** Okay. Hang on. Let me find the old
11:24AM 18 version, which I think I have here --

11:24AM 19 **MR. FOTI:** Sure.

11:24AM 20 **THE COURT:** -- at my desk. 804 --

11:24AM 21 **MR. FOTI:** (b), which is the exceptions.

11:24AM 22 Then subdivision (3) is statements against interests.

11:24AM 23 **THE COURT:** Yep.

11:24AM 24 **MR. FOTI:** And then sub (B) under that is --

11:24AM 25 **THE COURT:** Yep.

11:24AM 1 **MR. FOTI:** -- the portion that was -- was amended
11:24AM 2 about two weeks ago.

11:24AM 3 The amended version of the rule reads: If offered in
11:24AM 4 a criminal case, as one that tends to expose the declarant to
11:24AM 5 criminal liability is supported by corroborating circumstances
11:24AM 6 that clearly indicate its trustworthiness --

11:25AM 7 And then this is where there's a modification.

11:25AM 8 -- after considering the totality of circumstances
11:25AM 9 under which it was made and any evidence that supports or
11:25AM 10 undermines it.

11:25AM 11 So, it's -- it's specific. It just sort of clears up
11:25AM 12 language that the Court before admitting an unavailable
11:25AM 13 witness in a statement of -- against penal interests, there is
11:25AM 14 this additional consideration of the totality of the
11:25AM 15 circumstances. And the totality of circumstances is language
11:25AM 16 that was specifically added, and --

11:25AM 17 **THE COURT:** So tell me why the totality of the
11:25AM 18 circumstances should change this.

11:25AM 19 **MR. FOTI:** So there's been a rule that says the
11:25AM 20 Court's to consider evidence including evidence that
11:25AM 21 undermines the statement.

11:25AM 22 **THE COURT:** Yeah.

11:25AM 23 **MR. FOTI:** The evidence that undermines the
11:25AM 24 statement, the statement is Mr. Lepiane was just cited by the
11:25AM 25 government as corroborating evidence, but that's -- that's not

11:25AM 1 my recollection.

11:25AM 2 My recollection is Mr. Lepiane, at trial, consistent
11:25AM 3 the prior statements he's made, has always been consistent
11:26AM 4 that Mr. Bongiovanni had no impact on Mr. Gerace. He didn't
11:26AM 5 get him out of trouble, he didn't help him, he didn't have any
11:26AM 6 impact on the decision that was made of how to impose a
11:26AM 7 sanction.

11:26AM 8 **THE COURT:** Okay. So what's the question you want to
11:26AM 9 ask, Mr. Tripi?

11:26AM 10 **MR. COOPER:** Judge, can I just respond briefly to
11:26AM 11 that? It's not the right analysis about whether it impacted
11:26AM 12 Lepiane or not. What matters is was Bongiovanni trying to
11:26AM 13 impact Mr. Lepiane.

11:26AM 14 **THE COURT:** Mr. Cooper, I -- if you let me do it my
11:26AM 15 way, I know that. I -- I -- I recognize that. Which is why I
11:26AM 16 asked Mr. Tripi what's the question he wants to ask.

11:26AM 17 **MR. TRIPI:** I just want to get it right.

11:26AM 18 **THE COURT:** Because the question he asks is did he
11:26AM 19 intervene in a way that helped Mr. Gerace, that may be a
11:26AM 20 different analysis than did he intervene to help Mr. Gerace.

11:26AM 21 **MR. TRIPI:** I think the question I asked, as least as
11:26AM 22 I have it written here, is -- but I think this is what I
11:26AM 23 asked, is: What, if anything, did the defendant ever tell you
11:26AM 24 about Peter Gerace, Pharaoh's, and a situation involving
11:26AM 25 U.S. Probation?

11:26AM 1 Just to focus him on that.

11:26AM 2 So, it was a broad question. What did

11:27AM 3 Mr. Bongiovanni tell you. And I anticipate the response will

11:27AM 4 be, in sum and substance, he -- at the prior trial, he

11:27AM 5 testified, he told me Peter got violated, he stepped in to

11:27AM 6 help him with U.S. Probation.

11:27AM 7 In a prior -- in a prior report, the way he -- at

11:27AM 8 least it's documented him saying is he helped Peter stay out

11:27AM 9 of jail when he got in trouble with probation.

11:27AM 10 So there's some variation in the two ways he

11:27AM 11 described it.

11:27AM 12 **THE COURT:** Helped him stay out of jail may be

11:27AM 13 different.

11:27AM 14 **MR. TRIPI:** Yeah.

11:27AM 15 **THE COURT:** Yeah.

11:27AM 16 **MR. TRIPI:** So I don't know what exact verbiage we're

11:27AM 17 gonna get here, but I -- I think that's the range of answers.

11:27AM 18 **THE COURT:** Well, do you want to try to lead a little

11:27AM 19 bit?

11:27AM 20 **MR. TRIPI:** Sure, I can do that, Judge.

11:27AM 21 And I just think that to the extent the rule changed

11:27AM 22 a week ago, I don't think that changed the rule in the

11:27AM 23 2nd Circuit.

11:27AM 24 **THE COURT:** Well, I don't think it -- it does not

11:27AM 25 change my analysis here.

11:27AM 1 **MR. TRIPI:** Okay.

11:27AM 2 **THE COURT:** I mean, it -- it -- it fine tunes my

11:27AM 3 analysis here --

11:27AM 4 **MR. TRIPI:** Yeah.

11:27AM 5 **THE COURT:** -- but it doesn't cause me to reach a

11:27AM 6 different conclusion. I understand what you're saying.

11:28AM 7 **MR. FOTI:** Well, and I'm generally -- I think I'm on

11:28AM 8 the same page, as well. I think if the answer is about

11:28AM 9 Mr. Bongiovanni attempted to intervene in some way, I do think

11:28AM 10 the evidence corroborates the point that there was some

11:28AM 11 intervention.

11:28AM 12 **THE COURT:** Yeah, great.

11:28AM 13 **MR. FOTI:** But it's different from --

11:28AM 14 **THE COURT:** Did it work?

11:28AM 15 **MR. FOTI:** Yeah. Did he -- did he help him stay out

11:28AM 16 of jail is a different thing.

11:28AM 17 **THE COURT:** Yeah. And I don't think either -- and I

11:28AM 18 don't think anyone's trying to get there.

11:28AM 19 **MR. TRIPI:** I may not have written the whole quote

11:28AM 20 from the prior trial, because I have some dot dot dots. So,

11:28AM 21 but --

11:28AM 22 Ms. Champoux, can we pull up -- just for -- just so

11:28AM 23 we can see what it was?

11:28AM 24 **THE COURT:** Go ahead.

11:28AM 25 **MR. TRIPI:** I want to be -- can we pull up 3540AG at

11:28AM 1 page 72, just because I didn't write the full quote from the
11:28AM 2 trial in my notes here. Just so we can see what he said at
11:28AM 3 the prior trial.

11:28AM 4 All right. What, if anything, did the defendant ever
11:29AM 5 tell you about Gerace, Pharaoh's nightclub, and --

11:29AM 6 So it's the exact same question I asked at the last
11:29AM 7 trial.

11:29AM 8 His full answer was: He told me that Peter had
11:29AM 9 gotten violated, something had happened at the club, and
11:29AM 10 he stepped in to help him out. He reached out, I believe, to
11:29AM 11 probation. And I believe Peter was looking at going back
11:29AM 12 to -- he was released from federal custody, I believe he did
11:29AM 13 four months or whatever.

11:29AM 14 It was six months, so I'll have to curate that a
11:29AM 15 little bit.

11:29AM 16 **THE COURT:** Yeah. So why don't you just ask him the
11:29AM 17 first part of it. You know, did he tell you about the fact --
11:29AM 18 that first question. And then follow up with, did he tell you
11:29AM 19 that he intervened to help him when he got violated by
11:29AM 20 probation? Something like that.

11:29AM 21 **MR. SOEHNLEIN:** That's -- I think that's fine with
11:29AM 22 us, Judge.

11:29AM 23 **THE COURT:** Okay.

11:29AM 24 **MR. SOEHNLEIN:** But as long as we're here, I sense
11:29AM 25 that the next question then is going to be about the Anthony

11:29AM 1 Gerace comment, which I think there's a different analysis in
11:29AM 2 terms of totality of the circumstances than with -- with
11:30AM 3 respect to the Peter Gerace.

11:30AM 4 **THE COURT:** What's the Anthony Gerace question?

11:30AM 5 **MR. TRIPI:** Have you ever discussed with Bongiovanni
11:30AM 6 any assistance he provided Anthony Gerace to get out of
11:30AM 7 trouble.

11:30AM 8 And he's going to explain yes, that -- that Peter
11:30AM 9 asked -- Bongiovanni said Peter asked him to essentially step
11:30AM 10 in when Anthony got in trouble with the Amherst Police
11:30AM 11 Department.

11:30AM 12 **MR. SOEHNLEIN:** I --

11:30AM 13 **MR. FOTI:** Judge, my understanding is there's not
11:30AM 14 really any corroboration of that at all. Not just in this
11:30AM 15 trial, but in general. And part of this --

11:30AM 16 **THE COURT:** Well, but it doesn't have to
11:30AM 17 corroboration, does there? It's -- the question -- the rule
11:30AM 18 that you just read to me says is there -- considering the
11:30AM 19 totality of the circumstances, is it -- is it reliable, and is
11:30AM 20 there any reason to doubt it.

11:30AM 21 **MR. FOTI:** Yeah.

11:30AM 22 **THE COURT:** What reason do I have to doubt it?

11:30AM 23 **MR. FOTI:** An arrest of Mr. Gerace at the Amherst
11:31AM 24 Police Department is something that should easily be
11:31AM 25 documented and could be supported by some type of evidence, I

11:31AM 1 don't think there is any.

11:31AM 2 I think -- and I -- at some point we talked to
11:31AM 3 Mr. Bongiovanni's attorneys about it, and they had said that
11:31AM 4 this was -- was discussed more -- I don't know if it was
11:31AM 5 during the course of trial or as part of their prep, but they
11:31AM 6 said consistently their read on it was there was nothing to
11:31AM 7 back up that this ever occurred at well.

11:31AM 8 **MR. SOEHNLEIN:** Yeah. And more to the point, Judge,
11:31AM 9 not that this is, you know, anything that would necessarily
11:31AM 10 come out in court, but from reading the documents, Mr. Selva's
11:31AM 11 arrested in 2019, he doesn't report that comment until
11:31AM 12 September of 2023 to law enforcement.

11:31AM 13 **THE COURT:** Well, you can cross-examine with that.
11:31AM 14 Go ahead.

11:31AM 15 **MR. TRIPI:** So, Judge --

11:31AM 16 **THE COURT:** What do you have?

11:31AM 17 **MR. TRIPI:** -- what I have on that is, first, there
11:31AM 18 wouldn't be an arrest if Mr. Bongiovanni stepped in in
11:31AM 19 sufficient time to kill an arrest, right?

11:31AM 20 But in terms of -- the 2nd Circuit has long held --
11:31AM 21 this United States versus Saggett, that circumstances
11:32AM 22 indicating trustworthiness include where the statement was
11:32AM 23 made to a person whom the declarant believes an ally.

11:32AM 24 I don't think there's any question that Bongiovanni
11:32AM 25 at the time he said that would have believed Lou Selva and him

11:32AM 1 are on the same team. You know? So there's a circumstance
11:32AM 2 indicating trustworthiness.

11:32AM 3 So it's not just is it do you have corroboration,
11:32AM 4 there are a number of different circumstances that can
11:32AM 5 indicate trustworthiness.

11:32AM 6 Another is, does the declarant represent an attempt
11:32AM 7 to shift blame? No, he's taking credit for helping Anthony
11:32AM 8 get out of trouble. Which, again, that lends to the exception
11:32AM 9 and believability, an indicator of trustworthiness.

11:32AM 10 **THE COURT:** Tell me -- tell me -- tell me how it's a,
11:32AM 11 I guess, against penal interests, he's --

11:32AM 12 **MR. TRIPI:** He's a DEA agent.

11:32AM 13 **THE COURT:** Yeah, he shouldn't be doing --

11:32AM 14 **MR. TRIPI:** And although the jury doesn't know it,
11:32AM 15 you know under 104 you can consider all the proffers that --
11:32AM 16 it's in the context when Selva and Bongiovanni are in a
11:33AM 17 conspiracy.

11:33AM 18 **THE COURT:** Yeah.

11:33AM 19 **MR. FOTI:** Judge, it's a -- even if he killed an
11:33AM 20 arrest somehow, which we're totally speculating on because
11:33AM 21 there's nothing to back that up other than this statement --

11:33AM 22 **MR. COOPER:** Two trials.

11:33AM 23 **MR. FOTI:** -- there's typically going to be some
11:33AM 24 documentation of an interaction with an individual. Even if
11:33AM 25 the arrest itself isn't documented, there's police reports

11:33AM 1 documenting interactions.

11:33AM 2 **THE COURT:** I think it comes in. I think it comes
11:33AM 3 in. I think it can come in, in very general terms that he
11:33AM 4 stepped in to try to help.

11:33AM 5 **MR. COOPER:** That Peter asked, that --

11:33AM 6 **THE COURT:** That Peter asked him to step in to try
11:33AM 7 help Anthony, when Anthony got jammed up with something.

11:33AM 8 Yeah. I think that can come in. But it's got to be
11:33AM 9 pretty general, and in and out.

11:33AM 10 **MR. TRIPI:** Okay.

11:33AM 11 **THE COURT:** Okay. Anything else before we resume?

11:33AM 12 **MR. COOPER:** Judge, Special Agent Burns mentioned to
11:33AM 13 me, and I think it's a good idea, that maybe at some point
11:33AM 14 today it would be wise for you to let the jury know kind of
11:33AM 15 where we're looking scheduling-wise, because Christmas is
11:33AM 16 coming up, and kind of give them an idea of when we think
11:33AM 17 we're gonna --

11:33AM 18 **THE COURT:** Okay. Yeah. I hate to get people's
11:34AM 19 hopes up, but --

11:34AM 20 **MR. COOPER:** Well, it doesn't look like it's gonna be
11:34AM 21 pre-Christmas at this point.

11:34AM 22 **THE COURT:** Yeah, I guess that's true. Okay. Yeah,
11:34AM 23 let me -- let me -- I'll try to figure out something to say
11:34AM 24 maybe right after our lunch break.

11:34AM 25 **MR. TRIPI:** Is there a way that we can leave this up

1 just for the attorneys for a moment, just so I can get where
2 I'm gonna stop? Or I can go get the hardcopy. I don't want
3 to cause too many problems.

4 **THE COURT:** Yeah, just leave it up, but don't put it
5 up for the jury.

6 **THE CLERK:** Yeah, I turned off the witness display.

7 **MR. TRIPI:** Okay. Great.

8 **THE COURT:** Anything else?

9 **MR. TRIPI:** No.

10 **MR. SOEHNLEIN:** No.

11 **THE COURT:** Let's bring them back. We're just going
12 to go for a half an hour now.

13 (Jury seated at 11:35 a.m.)

14 **THE COURT:** Okay. So it was just pointed out to me
15 that number 12 is wearing a Patriots jersey, I'm surprised he
16 doesn't have a paper bag over his head this season.

17 The record will reflect that all our jurors are again
18 present.

19 I remind the witness that he's still under oath.

20 Before you continue, Mr. Tripi, let me tell the jury
21 something about --

22 You can sit down, Mr. Selva.

23 **THE WITNESS:** Okay.

24 **THE COURT:** Before you begin, Mr. Tripi, let me tell
25 the jury something about some questions and answers that were

1 just a few minutes ago.

11:36AM 2 So you remember that Mr. Tripi called to the
11:36AM 3 witness's attention a prior statement that he had made to
11:36AM 4 investigators about whether Mr. Bongiovanni had used the "N"
11:36AM 5 word or other racial terms. That was admitted only for you to
11:36AM 6 assess Mr. Selva's credibility, it's not being admitted --
11:36AM 7 again, this is one of those things that's not being admitted
11:37AM 8 for the truth of it.

11:37AM 9 So whether Mr. Bongiovanni, in fact, used the racial
11:37AM 10 terms that he was -- that the witness was asked about, the
11:37AM 11 truth of that is not in front of you based on that question
11:37AM 12 about whether he said that to police investigators earlier,
11:37AM 13 okay? That's only for you to assess this witness's
11:37AM 14 credibility with respect to that and anything else. Okay?

11:37AM 15 Got it? Great.

11:37AM 16 Mr. Tripi, you may continue.

11:37AM 17 I remind the witness he's still under oath.

11:37AM 18 **THE WITNESS:** Yes, Your Honor.

11:37AM 19 **BY MR. TRIPPI:**

11:37AM 20 Q. Okay. I -- I turned to another topic before the break
11:37AM 21 there, so I'm going to start there, okay?

11:37AM 22 Yes or no to this question: Did Mr. Bongiovanni ever
11:37AM 23 tell you anything about this defendant, Mr. Gerace, Pharaoh's
11:37AM 24 nightclub, and a situation involving U.S. Probation? Yes or
11:37AM 25 no?

11:37AM 1 A. Yes.

11:38AM 2 Q. Okay. Did Mr. Bongiovanni tell you that this defendant
11:38AM 3 had gotten violated by U.S. Probation, that something
11:38AM 4 happened at Pharaoh's, and that Mr. Bongiovanni stepped in to
11:38AM 5 help this defendant out?

11:38AM 6 A. Yes.

11:38AM 7 **MR. TRIPI:** You can take that down, Ms. Champoux,
11:38AM 8 thank you.

11:38AM 9 **BY MR. TRIPI:**

11:38AM 10 Q. In approximately 2015, did you discuss with
11:38AM 11 Mr. Bongiovanni some assistance that he provided to Anthony
11:38AM 12 Gerace, to help Anthony Gerace get out of trouble? Yes or
11:38AM 13 no.

11:38AM 14 A. Yes.

11:38AM 15 Q. Did Mr. Bongiovanni -- did that come up in the context of
11:38AM 16 discussing both Mr. Gerace -- Anthony Gerace and this
11:39AM 17 defendant, was there a discussion that involved the topic of
11:39AM 18 both of them at some point?

11:39AM 19 A. Yes.

11:39AM 20 Q. Did Mr. Bongiovanni tell you that this defendant reached
11:39AM 21 out to him asking Mr. Bongiovanni to step in on Anthony's
11:39AM 22 behalf when Anthony got in trouble with the Amherst Police
11:39AM 23 Department?

11:39AM 24 A. Yes.

11:39AM 25 Q. Did Mr. Bongiovanni in that discussion indicate to you

11:39AM 1 that he did step in?

11:39AM 2 A. He did.

11:39AM 3 Q. Did he indicate to you that he told whoever at Amherst
11:39AM 4 police that Anthony Gerace was a cooperator?

11:39AM 5 A. Yes, that's what he said.

11:39AM 6 Q. At the time you had this discussion with Mr. Bongiovanni,
11:39AM 7 was Mr. Anthony Gerace involved with you and others that you
11:39AM 8 were involved with selling marijuana?

11:39AM 9 A. Yes. At that time, yes.

11:40AM 10 Q. During the course of their relationship, meaning

11:40AM 11 Mr. Gerace and Mr. Bongiovanni, were you aware of any trips
11:40AM 12 they took together?

11:40AM 13 A. Yes.

11:40AM 14 Q. Where -- where were you aware that they went together?

11:40AM 15 A. Las Vegas, New York, Toronto, I think. Niagara Falls.
11:40AM 16 Possibly Florida. But they traveled.

11:40AM 17 Q. Were you aware of Mr. Bongiovanni attending Gerace's
11:40AM 18 parents' 50th anniversary?

11:40AM 19 A. Yes, he told me he did, yes.

11:40AM 20 Q. Did your parents have a 50th anniversary?

11:40AM 21 A. Yes.

11:40AM 22 Q. Did Mr. Bongiovanni attend their anniversary?

11:40AM 23 A. No.

11:40AM 24 Q. Is that a reason you remember that he attended
11:40AM 25 Mr. Gerace's parents' anniversary?

11:40AM 1 A. Yeah. Yes.

11:41AM 2 Q. Did Mr. Bongiovanni like nice things, based on your
11:41AM 3 experiences with him?

11:41AM 4 A. Yes.

11:41AM 5 Q. Based on your observations, did he like going out for
11:41AM 6 nice dinners?

11:41AM 7 A. Yes.

11:41AM 8 Q. Did he like nice clothes?

11:41AM 9 A. Yes.

11:41AM 10 Q. And did he and Lindsay, his wife, like to travel?

11:41AM 11 A. Yes.

11:41AM 12 Q. Do those things cost money?

11:41AM 13 A. Yes.

11:41AM 14 Q. When you would use cocaine with Mr. Bongiovanni, did he
11:42AM 15 ever express to you why he was willing to use cocaine but not
11:42AM 16 marijuana? Just yes or no first.

11:42AM 17 A. Yes.

11:42AM 18 Q. What did he say in that regard?

11:42AM 19 A. He said that cocaine stays in your system for lesser
11:42AM 20 amount of time. And if you flush it out from working out and
11:42AM 21 drinking a lot of water, it's not detectable if you were to
11:42AM 22 take a test, where marijuana stays in your system 30 days or
11:42AM 23 so.

11:42AM 24 Q. Do you know an individual named Paul Francoforte, also
11:42AM 25 known as Hot Dog?

11:42AM 1 **MR. SOEHNLEIN:** Objection. Relevance.

11:42AM 2 **THE COURT:** Does he know? I'll allow that.

11:42AM 3 **MR. TRIPI:** And I'll -- the relevance will become
11:42AM 4 clear.

11:42AM 5 **THE COURT:** Go ahead.

11:42AM 6 **BY MR. TRIPI:**

11:42AM 7 Q. Do you know?

11:42AM 8 A. Yes.

11:42AM 9 Q. At some point, was Mr. Francoforte associated with a
11:42AM 10 restaurant on the corner of Hertel and Starin called Boss?

11:43AM 11 A. Yes.

11:43AM 12 **MR. TRIPI:** Can we pull up Exhibit 310AT, I think
11:43AM 13 record number 20.

11:43AM 14 **THE COURT:** Is this --

11:43AM 15 **MR. TRIPI:** This is in evidence in this case, yes.

11:43AM 16 You passed it. Go up a little bit, please. Top of
11:43AM 17 page 9, Ms. Champoux.

11:43AM 18 Okay. Can we zoom in on the top of page 9, that box
11:43AM 19 there?

11:43AM 20 **BY MR. TRIPI:**

11:43AM 21 Q. Do you see a first name there?

11:43AM 22 A. Yes.

11:43AM 23 Q. What's that say?

11:44AM 24 A. Pauly.

11:44AM 25 Q. Do you see a last name?

11:44AM 1 A. Yes. Hot Dog.

11:44AM 2 Q. And is Hot Dog that individual's nickname?

11:44AM 3 A. Yes.

11:44AM 4 Q. Do you know that individual to be Paul Francoforte?

11:44AM 5 A. Yes.

11:44AM 6 Q. And do you see a phone number there?

11:44AM 7 A. Yes.

11:44AM 8 Q. What's that number?

11:44AM 9 A. 716-866-2687.

11:44AM 10 Q. And is this the individual we talked about, Pauly

11:44AM 11 Francoforte, Hot Dog, is that a person who was friends with

11:44AM 12 Mr. Bongiovanni and associated with Boss Restaurant?

11:44AM 13 A. Yes.

11:44AM 14 **MR. TRIPI:** We can take that down.

11:45AM 15 **BY MR. TRIPI:**

11:45AM 16 Q. When Mr. Bongiovanni gave you directives and instructions

11:45AM 17 regarding telling law enforcement you were his C.I. if they

11:45AM 18 ever came to ask you questions, was that done face to face?

11:45AM 19 A. Yes.

11:45AM 20 Q. Did you and he discuss the importance of having those

11:45AM 21 types of discussions face to face?

11:45AM 22 A. Yes.

11:45AM 23 Q. Why was it important to you to have those types of

11:45AM 24 discussions face to face with Mr. Bongiovanni?

11:45AM 25 A. Not to talk over the phone, and to just get direction

11:45AM 1 from him.

11:45AM 2 Q. Can you elaborate? To not talk on the phone, was there a
11:45AM 3 concern about law enforcement tactics?

11:45AM 4 A. Yes, obviously surveillance, tapping the phones.

11:45AM 5 Q. Do you mean? Like, a wiretap?

11:45AM 6 A. Like a wiretap.

11:45AM 7 Q. Is that something where you feared people could listen to
11:45AM 8 your conversations?

11:45AM 9 A. Yes.

11:45AM 10 Q. Where would you typically meet with Mr. Bongiovanni to
11:45AM 11 have those types of discussions?

11:45AM 12 A. Various places on Hertel. We'd meet at a bar.

11:45AM 13 Q. Did you go to his house?

11:45AM 14 A. Or his house, yes.

11:46AM 15 Q. Have you spoken in parks with him?

11:46AM 16 A. Parks, yes. We've taken walks.

11:46AM 17 Q. Okay. Earlier sort of near the beginning of your
11:46AM 18 testimony, we talked about Mr. Bongiovanni getting married in
11:46AM 19 Cabo San Lucas in February of 2015; do you recall that?

11:46AM 20 A. I do.

11:46AM 21 Q. Couple months before that, sort of in the lead-up to the
11:46AM 22 wedding, was there a stag party held for Mr. Bongiovanni?

11:46AM 23 A. There was.

11:46AM 24 Q. Is that sort of, like, the bachelor party?

11:46AM 25 A. Yes.

11:46AM 1 Q. Where was that party held?

11:46AM 2 A. In the Cobblestone District, in Iron Works. It's a

11:46AM 3 bar/restaurant.

11:46AM 4 Q. And for those not from the Buffalo area, is the

11:46AM 5 Cobblestone District sort of near where the arena is where

11:46AM 6 the Buffalo Sabres play?

11:46AM 7 A. Exactly.

11:46AM 8 Q. And was Iron Works a bar down there?

11:47AM 9 A. Yes.

11:47AM 10 Q. And who arranged the location of the stag party?

11:47AM 11 A. I did.

11:47AM 12 Q. And were you involved -- were you involved handing out

11:47AM 13 tickets?

11:47AM 14 A. Yes.

11:47AM 15 Q. Were others, as well?

11:47AM 16 A. Yes.

11:47AM 17 Q. I want to ask you about some of the names of some of the

11:47AM 18 people who were at the stag party, okay?

11:47AM 19 A. Okay.

11:47AM 20 Q. Was that individual whose photo we looked at earlier, Tom

11:47AM 21 Napoli, was he there?

11:47AM 22 A. Yes.

11:47AM 23 Q. You were there, obviously?

11:47AM 24 A. Yes.

11:47AM 25 Q. Was an individual named Mike Masecchia there?

11:47AM 1 A. Yes.

11:47AM 2 Q. Was this defendant there?

11:47AM 3 A. Yes.

11:47AM 4 Q. Was Tom Doctor, whose photo we looked at earlier, there?

11:47AM 5 A. Yes.

11:47AM 6 Q. Was -- do you know whether Agent Bongiovanni's partner,

11:48AM 7 Joe Palmieri, was there?

11:48AM 8 A. I believe he was, yes.

11:48AM 9 Q. Was an individual named Wayne Anderson there?

11:48AM 10 A. Yes.

11:48AM 11 **MR. TRIPI:** Can we pull up Exhibit 310AT, again,
11:48AM 12 please? I'd like to work -- this is in evidence. And let's
11:48AM 13 stop on the first page there.

11:48AM 14 **BY MR. TRIPI:**

11:48AM 15 Q. Do you see where it says forensic examination report?

11:48AM 16 Can you read what it says after case number?

11:48AM 17 A. Peter George Gerace.

11:48AM 18 **MR. TRIPI:** Okay. Let's go to the first page of
11:48AM 19 that, Ms. Champoux. Or, I'm sorry, the first page of the
11:48AM 20 contacts.

11:48AM 21 **BY MR. TRIPI:**

11:48AM 22 Q. All right. Regarding number 2, do you see name there
11:48AM 23 that says Jeff Anzalone with a phone number?

11:48AM 24 A. Yes.

11:48AM 25 Q. Okay. Record number 3, do you see an entry there for

11:48AM 1 Wayne Anderson with a phone number?

11:48AM 2 A. Yes.

11:48AM 3 **MR. TRIPI:** Okay. Let's go to the next page,

11:49AM 4 Ms. Champoux. Let's go to page 6.

11:49AM 5 **BY MR. TRIPI:**

11:49AM 6 Q. Record 9, do you see a name Chris Chudy at the bottom?

11:49AM 7 A. Yes, I do.

11:49AM 8 Q. If we can go to page 7 now. Do you see under record 10 a

11:49AM 9 name that's entered as Jessica Charm?

11:49AM 10 A. Yes.

11:49AM 11 **MR. TRIPI:** Can you scroll down to the next page for
11:49AM 12 now, Ms. Champoux? Stop there. I need to hover between the
11:49AM 13 two pages.

11:49AM 14 **BY MR. TRIPI:**

11:49AM 15 Q. Do you see a first name and a last name under record
11:49AM 16 number 13 there for Tommy Doctor?

11:49AM 17 A. Yes.

11:49AM 18 Q. Is that the person we looked at in the photo earlier, in
11:49AM 19 the photo that had Mr. Gerace, Mr. Bongiovanni, and the
11:49AM 20 individual with the shirt off drinking a beer?

11:50AM 21 A. It is, yes.

11:50AM 22 **MR. TRIPI:** Can we keep scrolling for now.

11:50AM 23 **BY MR. TRIPI:**

11:50AM 24 Q. Okay. We're now on page 9. We talked about Pauly
11:50AM 25 Hot Dog, right?

11:50AM 1 A. Yes.

11:50AM 2 **MR. TRIPI:** Okay. Let's keep scrolling. Keep going.

11:50AM 3 **BY MR. TRIPI:**

11:50AM 4 Q. So there, do you see under record 20 a name, Mike
11:50AM 5 Masecchia?

11:50AM 6 A. Yes.

11:50AM 7 Q. Okay. Under there, record 21, do you see a name Sue
11:50AM 8 Michalski?

11:50AM 9 A. Yes.

11:50AM 10 **MR. TRIPI:** Okay. Keep scrolling.

11:50AM 11 **BY MR. TRIPI:**

11:50AM 12 Q. Under record number 22, do you see a name there, Kim
11:50AM 13 Mecca?

11:50AM 14 A. Yes.

11:50AM 15 Q. Now who was Kim Mecca to you?

11:50AM 16 A. She was a girl that I went out with.

11:50AM 17 Q. Did she live with you for a period?

11:50AM 18 A. She lived with me for a period, yes.

11:50AM 19 Q. When your house got raided August 23rd, 2019, was Kim
11:51AM 20 Mecca there?

11:51AM 21 A. She was.

11:51AM 22 Q. Was she living with you at the time?

11:51AM 23 A. She was.

11:51AM 24 **MR. TRIPI:** Keep scrolling down.

25

11:51AM 1 **BY MR. TRIPI:**

11:51AM 2 Q. Do you see record 25?

11:51AM 3 A. Yes.

11:51AM 4 Q. Do you see the name Joe Palmieri?

11:51AM 5 A. I do, yes.

11:51AM 6 Q. Was he a -- as far as you know, was he a task force

11:51AM 7 officer at the DEA and partners with Joseph Bongiovanni?

11:51AM 8 A. Yes, he was.

11:51AM 9 **MR. TRIPI:** Keep scrolling down. Okay. Let me stop
11:51AM 10 you there. Do you see a record -- withdrawn. I misread the
11:51AM 11 name. Keep going.

11:51AM 12 Okay. Stop there. We're on to page -- looks like
11:52AM 13 15.

11:52AM 14 **BY MR. TRIPI:**

11:52AM 15 Q. Now, yesterday I asked you if Mr. Bongiovanni dated a
11:52AM 16 woman when he was younger named Dana Panepinto, and whether
11:52AM 17 she was the daughter of a guy named Donnie/Turtle Panepinto;
11:52AM 18 do you remember that?

11:52AM 19 A. I do.

11:52AM 20 Q. Do you see a name there, Turtle, with a phone number?

11:52AM 21 A. Yes.

11:52AM 22 Q. Okay.

11:52AM 23 **MR. TRIPI:** Keep scrolling down.

11:52AM 24 **BY MR. TRIPI:**

11:52AM 25 Q. By the way, record 38, do you see a name K.L.?

11:52AM 1 A. Yes.

11:52AM 2 Q. Now, do you know -- in fairness, do you know who that
11:52AM 3 person is?

11:52AM 4 A. I do not, no.

11:52AM 5 Q. Under record 39, do you see a name Lindsay Schuh?

11:52AM 6 A. Yes.

11:52AM 7 Q. Is that now Lindsay Bongiovanni?

11:52AM 8 A. Yes, it is.

11:52AM 9 Q. So it's Mr. Bongiovanni's wife?

11:52AM 10 A. Correct.

11:52AM 11 Q. Under that, do you see record 40, we're on page 16 of
11:53AM 12 this exhibit, is that Tom Napoli?

11:53AM 13 A. Yes, it is.

11:53AM 14 Q. And there's a phone number there?

11:53AM 15 A. Yes.

11:53AM 16 Q. And we've discussed him several times, right?

11:53AM 17 A. Yes.

11:53AM 18 **MR. TRIPI:** Keep scrolling. I'm gonna stop you
11:53AM 19 there.

11:53AM 20 **BY MR. TRIPI:**

11:53AM 21 Q. Do you see record number 45, do you see a name and phone
11:53AM 22 number for a Greg Trotter?

11:53AM 23 A. Yes, I do.

11:53AM 24 Q. Do you know who that is?

11:53AM 25 A. I don't.

11:53AM 1 **MR. TRIPI:** On page number -- go down a little. Go
11:53AM 2 down. Page number 18.

11:53AM 3 **BY MR. TRIPI:**

11:53AM 4 Q. Record 46, do you see a name Tommy O with a phone number?

11:53AM 5 A. Yes.

11:53AM 6 Q. In fairness, do you know who that is?

11:53AM 7 A. I don't.

11:53AM 8 **MR. TRIPI:** Keep scrolling. Stop there.

11:53AM 9 **BY MR. TRIPI:**

11:53AM 10 Q. Under record number 48, do you see a name there, Frank
11:53AM 11 Tripi?

11:53AM 12 A. Yes.

11:53AM 13 Q. Do you know who that is?

11:53AM 14 A. Yes.

11:53AM 15 Q. No relation of mine, right?

11:53AM 16 A. Correct.

11:53AM 17 Q. Okay. Is he someone that Mr. Bongiovanni also knew?

11:54AM 18 A. Yes.

11:54AM 19 Q. Under there, record 49, page 19 still, do you see the
11:54AM 20 name Joe Tomasello?

11:54AM 21 A. Yes.

11:54AM 22 Q. Is that someone you know?

11:54AM 23 A. Yes.

11:54AM 24 Q. Is that someone Mr. Bongiovanni knows?

11:54AM 25 A. Yes.

11:54AM 1 **MR. TRIPI:** Keep scrolling. Stop there.

11:54AM 2 **BY MR. TRIPI:**

11:54AM 3 Q. Record 51, do you see a record for Anthony bro?

11:54AM 4 A. Yes.

11:54AM 5 Q. And we talked about Anthony Gerace, this defendant has a
11:54AM 6 brother by that name?

11:54AM 7 A. Yes.

11:54AM 8 **MR. TRIPI:** Keep scrolling.

11:54AM 9 Okay. We're gonna take that down now.

11:54AM 10 **BY MR. TRIPI:**

11:55AM 11 Q. By February of 2015, when Mr. Bongiovanni was getting
11:55AM 12 married in Cabo San Lucas, had his sort of complaints about
11:55AM 13 his finances stopped by that point?

11:55AM 14 A. No.

11:55AM 15 Q. Did he still continue to complain about his finances?

11:55AM 16 A. Yes.

11:55AM 17 Q. Did he pay, though, for a destination wedding though that
11:55AM 18 year?

11:55AM 19 A. He did.

11:55AM 20 Q. Were you the best man at that wedding?

11:55AM 21 A. Yes.

11:55AM 22 **MR. TRIPI:** Ms. Champoux, for the witness only --

11:55AM 23 Just give me one moment, Judge.

11:55AM 24 **THE COURT:** How much more do you have, Mr. Tripi?

11:55AM 25 **MR. TRIPI:** Oh, I see the time, Judge. Maybe, like,

11:55AM 1 15 more minutes or so.

11:55AM 2 **THE COURT:** Yeah, so we're gonna have to break. But
11:55AM 3 go ahead, we'll go until close to noon.

11:55AM 4 **MR. TRIPI:** Okay. I'm going to hand you up -- maybe
11:55AM 5 we can end after getting these.

11:55AM 6 **THE COURT:** Great.

11:55AM 7 **BY MR. TRIPI:**

11:55AM 8 Q. I'm going to hand you up Exhibits 213-1 through 213-5
11:56AM 9 inclusive. Take a look at these. When you're done, look
11:56AM 10 back at me.

11:56AM 11 A. Okay. Thank you.

11:56AM 12 Q. Do you recognize those Exhibits 213-1 through 213-5
11:56AM 13 inclusive?

11:56AM 14 A. I do. Yes.

11:56AM 15 Q. Do those consist of photos of Mr. Bongiovanni's wedding
11:56AM 16 that you were in or that you took, and tweets that you made
11:56AM 17 following the -- at some point in proximity but following the
11:56AM 18 wedding?

11:56AM 19 A. Yes.

11:56AM 20 Q. Okay. Do they all fairly and accurately depict the
11:56AM 21 photos you took and the posting to Twitter of the images of
11:57AM 22 the wedding?

11:57AM 23 A. Yes.

11:57AM 24 **MR. TRIPI:** The government offers 213-1 through 5
11:57AM 25 inclusive, Your Honor.

11:57AM 1 **MR. SOEHNLEIN:** Can I just take a look at them, Joe?

11:57AM 2 **MR. TRIPI:** Sure, no problem.

11:57AM 3 **THE COURT:** Sure.

11:57AM 4 **MR. SOEHNLEIN:** No objection.

11:57AM 5 **THE COURT:** Received without objection.

11:57AM 6 **(GOV Exhibit 213-1 through 5 were received in evidence.)**

11:57AM 7 **MR. TRIPI:** All right. Do you want me to keep going?

11:57AM 8 I was going to publish a couple of them, do you want me to

11:57AM 9 keep going?

11:57AM 10 **THE COURT:** Why don't we break, because I have

11:57AM 11 another matter that I need do at noon.

11:57AM 12 So remember my instructions, folks, about not

11:57AM 13 communicating about the case with anyone, including each

11:57AM 14 other. Don't use tools of technology to communicate about the

11:57AM 15 case or to learn anything about the case. Don't read or watch

11:57AM 16 or listen to any news coverage, if there is any, while the

11:57AM 17 trial is in progress. And don't make up your mind until you

11:58AM 18 start deliberating.

11:58AM 19 Let's come back close to quarter to 1, and we'll try

11:58AM 20 to go a couple hours, take a break, and then go until 4.

11:58AM 21 Okay? Thanks very much.

11:58AM 22 Oh, and I hope to have an update for you about the

11:58AM 23 rest of the trial when you come back after lunch.

11:58AM 24 (Jury excused at 11:58 a.m.)

11:59AM 25 **THE COURT:** Again, Mr. Selva, you're not to talk to

11:59AM 1 anybody except your lawyer during the break.

11:59AM 2 (Witness excused at 11:59 a.m.)

11:59AM 3 **THE COURT:** Anything before we break from Mr. Foti?

11:59AM 4 **MR. FOTI:** No.

11:59AM 5 **THE COURT:** Government?

11:59AM 6 **MR. COOPER:** No, thank you.

11:59AM 7 **THE COURT:** All right. We'll see you in 45 minutes.

11:59AM 8 (Off the record at 11:59 a.m.)

12:50PM 9 (Back on the record at 12:50 p.m.)

12:50PM 10 (Jury not present.)

12:50PM 11 **THE CLERK:** All rise.

12:50PM 12 **THE COURT:** Please be seated.

12:50PM 13 **THE CLERK:** We are back on the record for the

12:50PM 14 continuation of the jury trial in case numbers 19-cr-227 and

12:50PM 15 23-cr-37, United States of America versus Peter Gerace Jr.

12:50PM 16 All counsel and parties are present. Mr. Cooper just
12:50PM 17 ran out.

12:50PM 18 **THE COURT:** That's okay. That's fine.

12:50PM 19 Have you thought about charging the jury without
12:50PM 20 Mr. Soehnlein present?

12:50PM 21 **MR. SOEHNLEIN:** Yeah, we -- we talked about it,
12:50PM 22 Your Honor, and we have not talked with Mr. Gerace about it.
12:50PM 23 Think Mr. Foti and I are okay with that, but we would just
12:51PM 24 ask -- maybe get through one more break, and we'll ask
12:51PM 25 Mr. Gerace and make sure he's all right.

12:51PM 1 **THE COURT:** Absolutely, yeah. It makes sense to me
12:51PM 2 for lots of reasons. And then maybe even let them to start
12:51PM 3 deliberating with the understanding that if they come back
12:51PM 4 with anything that is substantive as to a request, we don't do
12:51PM 5 it, we send them home and let them start up again when
12:51PM 6 Mr. Soehnlein is back.

12:51PM 7 **MR. SOEHNLEIN:** And then I don't have to sit through
12:51PM 8 the charge.

12:51PM 9 **THE COURT:** And then you don't have to listen to my
12:51PM 10 voice for as long as you've had to listen to it for most of
12:51PM 11 your adult life, right?

12:51PM 12 **MR. SOEHNLEIN:** Well, yeah.

12:51PM 13 **MR. COOPER:** He meant to say, I don't get to sit
12:51PM 14 through the charge. He misspoke.

12:51PM 15 **THE COURT:** I get it. I get it. I get it.

12:51PM 16 **MR. FOTI:** I intend to call him afterwards and tell
12:51PM 17 him how it was, Judge.

12:51PM 18 **MS. IZZO:** Riveting.

12:51PM 19 **THE COURT:** So what I will do is I'll tell them now.
12:51PM 20 Mr. Tripi, how long is your summation going to go?

12:51PM 21 **MR. TRIPI:** Mr. Cooper is closing.

12:52PM 22 **THE COURT:** Oh, Mr. Cooper?

12:52PM 23 **MR. TRIPI:** I am going to rebut in whatever time is
12:52PM 24 left. I'll be Mr. Violanti this time, but I'm not gonna do
12:52PM 25 the "I'm gonna talk to you as Joel" routine.

12:52PM 1 **MR. COOPER:** I've forbidden him from pretending to be
12:52PM 2 Joel.

12:52PM 3 I think that the summation, Judge, probably we'd be
12:52PM 4 asking for three and a half hours for the entire -- because
12:52PM 5 there's a lot, and there's different types of material.

12:52PM 6 **THE COURT:** I was actually thinking three, but
12:52PM 7 let's -- let me think about it.

12:52PM 8 **MR. COOPER:** I'll live with whatever you decide.

12:52PM 9 **THE COURT:** Yeah. And who's going to sum up?

12:52PM 10 **MR. FOTI:** I am.

12:52PM 11 **THE COURT:** And what are you thinking?

12:52PM 12 **MR. FOTI:** I -- I would think most likely two and a
12:52PM 13 half to three.

12:52PM 14 **THE COURT:** Yeah. Yeah. So I want to get it done in
12:52PM 15 one day. So maybe we'll say three each. Let's think about
12:52PM 16 three each right now.

12:52PM 17 And so I'll tell them that that may happen on
12:52PM 18 Thursday, and that they may get charged on Friday next week.
12:52PM 19 And we're not making any promises, but that's what we would
12:52PM 20 think is a possibility. Okay? Fair enough?

12:53PM 21 **MR. FOTI:** And you're not -- Judge, you're just
12:53PM 22 referencing where we're gonna -- we're expecting to end up at
12:53PM 23 the end of the week. You're not talking about any estimation
12:53PM 24 about how long our case is going on, or whether we're putting
12:53PM 25 on a case at all, right?

12:53PM 1 **THE COURT:** No, just talking in very general terms
12:53PM 2 that we are thinking that, you know, that the lawyers may be
12:53PM 3 in a position to sum up to you next Thursday, and then I would
12:53PM 4 charge you on Friday, so you would begin your deliberations
12:53PM 5 perhaps on Friday and then continue the following week. And
12:53PM 6 that -- and leave it at that.

12:53PM 7 **MR. FOTI:** Okay.

12:53PM 8 **THE COURT:** Okay? Okay. So anything else before we
12:53PM 9 bring them back?

12:53PM 10 **MR. SOEHNLEIN:** One thing briefly, Judge. Just to
12:53PM 11 make a record of it, when I was coming down from the 9th floor
12:53PM 12 to the 4th floor, I was with Mr. Glaberson, Ms. Blackman, and
12:53PM 13 a marshal. The elevator doors opened on 7, and a juror walked
12:53PM 14 basically right into me, not really, and she said sorry and I
12:53PM 15 said sorry, and she stepped off the elevator, and that was it.
12:54PM 16 But as long as we're being real careful with that stuff, I
12:54PM 17 wanted everyone to be --

12:54PM 18 **THE COURT:** No, absolutely, we all should be
12:54PM 19 transparent about those kinds of things, and I appreciate
12:54PM 20 that.

12:54PM 21 **MR. COOPER:** We appreciate it. We try do the same
12:54PM 22 thing, and appreciate you telling us.

12:54PM 23 **THE COURT:** Okay, anything else?

12:54PM 24 **MR. SOEHNLEIN:** No, Judge.

12:54PM 25 **THE COURT:** Anything else from the government?

12:54PM 1 **MR. TRIPI:** No, Judge.

12:54PM 2 **THE COURT:** Let's bring them back, please, Joe.

12:55PM 3 (Jury seated at 12:55 p.m.)

12:55PM 4 **THE COURT:** Okay. The record will reflect all our

12:55PM 5 jurors, again, are present.

12:55PM 6 So a couple things, folks.

12:55PM 7 One, you'll notice Ms. Chalbeck is not here again

12:56PM 8 today. Again, she's got an important matter that she needed

12:56PM 9 to attend to. I've excused her. It has nothing to do with

12:56PM 10 this case. You should not be concerned about it in any way.

12:56PM 11 Number 2, I told you I'd give you an update on where

12:56PM 12 we think we may be going with the trial.

12:56PM 13 There's a chance, it's not a promise, but there's a

12:56PM 14 chance that the proof will end on Wednesday next week, and the

12:56PM 15 lawyers will sum up to you then on Thursday, and I may give

12:56PM 16 you the jury charge on Friday, so you'd start deliberating on

12:56PM 17 Friday and continue into next week.

12:56PM 18 So, that's -- that's not a promise. You know, lots

12:56PM 19 of things have happened to extend this trial: Weather and

12:56PM 20 illness and lots of other things. But that's what we think is

12:56PM 21 a decent guess right now. Okay? Yes.

12:56PM 22 **JUROR:** I'm sorry, so we will be here Friday the

12:56PM 23 20th?

12:56PM 24 **THE COURT:** Maybe.

12:57PM 25 **JUROR:** Maybe?

12:57PM 1 **THE COURT:** It's still up in the air. Maybe. Maybe.
12:57PM 2 There's a decent possibility that you will be, okay?
12:57PM 3 I remind the witness that he's still under oath.
12:57PM 4 You may continue, Mr. Tripi.
12:57PM 5 **MR. TRIPI:** Thank you, Your Honor.
12:57PM 6 Ms. Champoux, can we split the screen with
12:57PM 7 Exhibit 213-1 now in evidence, and 213-4 now in evidence?
12:57PM 8 **BY MR. TRIPI:**
12:57PM 9 Q. Okay. When it comes up on the screen, Mr. Selva, it's a
12:57PM 10 little bit darker than it is when I hand you the piece of
12:57PM 11 paper, right?
12:57PM 12 A. Yes.
12:57PM 13 Q. In any event, can you see it well enough on the screen?
12:57PM 14 A. Yes.
12:57PM 15 Q. Looking at 213-1, top photo there, we're looking at
12:57PM 16 tweets that you made, right?
12:57PM 17 A. Yes.
12:57PM 18 Q. Is that top photo you and Mr. Bongiovanni?
12:57PM 19 A. Yes.
12:57PM 20 Q. Is he the one in the green shirt?
12:58PM 21 A. Yes, to the right.
12:58PM 22 Q. And what's the setting and scene of the photo?
12:58PM 23 A. It's in Cabo San Lucas. I believe it was on a booze
12:58PM 24 cruise.
12:58PM 25 Q. Okay. Now I'll focus you in on 213-4 at the bottom. Are

12:58PM 1 you and Mr. Bongiovanni also in that photo?

12:58PM 2 A. Yes.

12:58PM 3 Q. And who's that photo of? There's four people there.

12:58PM 4 A. Mr. Bongiovanni, myself, Tom Napoli, and

12:58PM 5 Mr. Bongiovanni's stepson Matt.

12:58PM 6 Q. Okay. Tom Napoli's at the far left?

12:58PM 7 A. He's at the far left, yes.

12:58PM 8 Q. Next to him is that Mr. Bongiovanni?

12:58PM 9 A. Yes.

12:58PM 10 Q. Then next to him is that you?

12:58PM 11 A. Yes.

12:58PM 12 Q. Is that basically a picture of the wedding party?

12:58PM 13 A. Yes.

12:58PM 14 Q. Now, the suits that the wedding party is wearing, who
12:58PM 15 bought those?

12:58PM 16 A. Mr. Bongiovanni.

12:58PM 17 Q. Okay. So he paid for your suit?

12:58PM 18 A. Yes.

12:58PM 19 Q. Who paid for the wedding?

12:58PM 20 A. I believe Mr. Bongiovanni.

12:59PM 21 **MR. TRIPI:** Okay. We can take those down,

12:59PM 22 Ms. Champoux.

12:59PM 23 **BY MR. TRIPI:**

12:59PM 24 Q. And again, the actual wedding the tweets, the tweets are
12:59PM 25 in May, but the actual wedding was in February of 2015?

12:59PM 1 A. Yes.

12:59PM 2 Q. Okay. I'd like to fast forward now from 2015 to the
12:59PM 3 fall, roughly the fall of 2018.

12:59PM 4 In the fall of 2018, did Mr. Bongiovanni alert you to
12:59PM 5 some trouble he was having at work?

12:59PM 6 A. Yes.

12:59PM 7 Q. Did he start talking about retiring around that time?

12:59PM 8 A. Yes.

12:59PM 9 Q. Was a concern he expressed, did it relate to another DEA
12:59PM 10 agent he worked with named Anthony Casullo?

12:59PM 11 A. Yes.

12:59PM 12 Q. Prior to that point, as far as you knew, had defendant --
01:00PM 13 had Mr. Bongiovanni been planning to retire?

01:00PM 14 A. No.

01:00PM 15 **MR. TRIPI:** Now, if we can pull back up Exhibit 127
01:00PM 16 briefly. This is in evidence. I'm sorry, 126. My fault.

01:00PM 17 **BY MR. TRIPI:**

01:00PM 18 Q. Now I showed you this photograph before. Is there
01:00PM 19 another individual in this photograph named Michael Sinatra?

01:00PM 20 **MR. SOEHNLEIN:** Objection. Relevance.

01:00PM 21 **MR. TRIPI:** They've heard testimony about this entire
01:00PM 22 episode from Mr. Myszka.

01:00PM 23 **THE COURT:** I'll allow this, and we'll see where it
01:00PM 24 goes.

01:00PM 25 **THE WITNESS:** Yes.

01:00PM 1 **BY MR. TRIPI:**

01:00PM 2 Q. Can you show the jury where Michael Sinatra is?

01:00PM 3 **MR. TRIPI:** May the record reflect the witness has
01:00PM 4 indicated the person second from the left in the photo.

01:00PM 5 **BY MR. TRIPI:**

01:01PM 6 Q. Wearing light gray suit coat; is that right?

01:01PM 7 A. Correct.

01:01PM 8 Q. Okay. Now, in approximately January of 2019, did you
01:01PM 9 learn that Anthony Gerace and Michael Sinatra's houses were
01:01PM 10 raided by law enforcement?

01:01PM 11 A. Yes.

01:01PM 12 **MR. TRIPI:** We can take that down, Ms. Champoux.

01:01PM 13 **BY MR. TRIPI:**

01:01PM 14 Q. After Michael Sinatra and Anthony Gerace's houses were
01:01PM 15 searched, did you speak about it -- just yes or no -- with
01:01PM 16 Mr. Bongiovanni?

01:01PM 17 A. Yes.

01:01PM 18 Q. Did you discuss, specifically with Mr. Bongiovanni,
01:01PM 19 Anthony Gerace's house being searched?

01:01PM 20 A. Yes.

01:01PM 21 Q. When Mr. Bongiovanni discussed that with you, what was
01:02PM 22 his demeanor?

01:02PM 23 A. Not himself. Nervous.

01:02PM 24 Q. In that timeframe between fall of 2018 and the time
01:02PM 25 following when you heard about Michael Sinatra and Anthony

01:02PM 1 Gerace's house being searched, in that timeframe, did
01:02PM 2 Mr. Bongiovanni comment to you that he was being scrutinized
01:02PM 3 at work over Anthony and Peter Gerace?

01:02PM 4 **MR. SOEHNLEIN:** Objection. In furtherance.

01:02PM 5 **THE COURT:** Oh, yeah. Hearsay.

01:02PM 6 **MR. TRIPPI:** State of mind, Your Honor.

01:02PM 7 **THE COURT:** Mr. Bongiovanni's state of mind?

01:02PM 8 **MR. TRIPPI:** Yes.

01:02PM 9 **THE COURT:** Okay. So this is not being admitted for
01:02PM 10 the truth of it, it's being admitted to show Mr. Bongiovanni's
01:03PM 11 state of mind.

01:03PM 12 Objection overruled on that -- on that limited
01:03PM 13 ground, and you can answer.

01:03PM 14 **THE WITNESS:** Yes, it was.

01:03PM 15 **BY MR. TRIPPI:**

01:03PM 16 Q. You said: Yes, it was.

01:03PM 17 Did you mean: Yes, he was?

01:03PM 18 A. Yes.

01:03PM 19 Q. Okay. Did you witness Mr. Bongiovanni become
01:03PM 20 increasingly stressed prior to retiring from DEA?

01:03PM 21 A. Yes.

01:03PM 22 Q. After he retired from DEA, did you later hear that
01:03PM 23 Mr. Bongiovanni's house was searched in around June of 2019?

01:03PM 24 A. Yes.

01:03PM 25 **MR. SOEHNLEIN:** Objection.

01:03PM 1 **THE COURT:** Yeah, sustained.

01:03PM 2 **BY MR. TRIPI:**

01:03PM 3 Q. After Mr. Bongiovanni's home was searched in or about
01:04PM 4 June of 2019, did you meet up with him at some point?

01:04PM 5 **MR. SOEHNLEIN:** Objection. Same objection, Judge.

01:04PM 6 **MR. TRIPI:** Judge --

01:04PM 7 **THE COURT:** Did you meet up with him? No, overruled.

01:04PM 8 **BY MR. TRIPI:**

01:04PM 9 Q. Did you meet up with Mr. Bongiovanni after a period of
01:04PM 10 time?

01:04PM 11 A. After a period of time, yes.

01:04PM 12 Q. Was there a short period of time where Mr. Bongiovanni
01:04PM 13 was sort of laying low where you couldn't get ahold of him?

01:04PM 14 A. Yes.

01:04PM 15 Q. After about month or so, did you and he reconnect?

01:04PM 16 A. Yes.

01:04PM 17 Q. At that point after the searches of Anthony and Joe later
01:04PM 18 that same year, were you nervous?

01:04PM 19 A. Yes.

01:04PM 20 Q. Did you have a discussion with Mr. Bongiovanni at his
01:05PM 21 house in his driveway?

01:05PM 22 A. Yes.

01:05PM 23 Q. Now is that one of the occasions where Mr. Bongiovanni
01:05PM 24 reminded you of what you should say to law enforcement if
01:05PM 25 they approached you?

01:05PM 1 A. It was. Yes.

01:05PM 2 Q. Was that essentially to tell them you were his informant?

01:05PM 3 A. Correct.

01:05PM 4 Q. And that would have been false, correct?

01:05PM 5 A. Correct.

01:05PM 6 Q. Did you also sort of meet up at a point in time near

01:05PM 7 Delaware Park and have a similar discussion?

01:05PM 8 A. Yes.

01:05PM 9 Q. During the walk in the Delaware Park meeting, did you

01:05PM 10 also discuss with him Anthony Gerace?

01:05PM 11 **MR. SOEHNLEIN:** Objection.

01:05PM 12 **MR. TRIPI:** It's a "yes" or "no" question, Judge.

01:05PM 13 **THE COURT:** Yeah, overruled.

01:05PM 14 **THE WITNESS:** Yes.

01:05PM 15 **BY MR. TRIPI:**

01:05PM 16 Q. During the meeting in the park, what, if any, concerns

01:05PM 17 was Mr. Bongiovanni expressing to you regarding Anthony

01:06PM 18 Gerace?

01:06PM 19 A. Well, he was -- he was nervous about it, that it would

01:06PM 20 come back on him with this whole operation that was going on.

01:06PM 21 **MR. SOEHNLEIN:** Your Honor, can we approach, please?

01:06PM 22 **THE COURT:** Yeah, come on up.

01:06PM 23 (Sidebar discussion held on the record.)

01:06PM 24 **THE COURT:** The whole operation going on, I think

01:06PM 25 he's talking about the Serio conspiracy, which he shouldn't.

01:06PM 1 I don't know if that's what he meant, but I don't want to go.

01:06PM 2 **MR. TRIPI:** I understand. I clearly -- my question
01:06PM 3 is clear about Anthony Gerace. And the problem for the
01:06PM 4 witness is Anthony Gerace is involved across the board.

01:06PM 5 **THE COURT:** I understand.

01:06PM 6 **MR. TRIPI:** I understand that. So I can ask a more
01:06PM 7 leading question.

01:06PM 8 **THE COURT:** I don't think there's -- I don't think
01:06PM 9 that the answer right now by itself is harmful if we want to
01:06PM 10 let the jury know what he meant by --

01:07PM 11 **MR. TRIPI:** Obviously, something's happening if law
01:07PM 12 enforcement is searching Anthony Gerace's house. They've seen
01:07PM 13 big boxes of marijuana and drugs.

01:07PM 14 **THE COURT:** I understand that.

01:07PM 15 **MR. TRIPI:** So, I mean, it's not --

01:07PM 16 **THE COURT:** I understand that. But -- but again, I
01:07PM 17 don't want the Serio conspiracy to make its way in through the
01:07PM 18 back door, so --

01:07PM 19 **MR. TRIPI:** I'll ask a very pointed question.

01:07PM 20 **THE COURT:** I overrule the objection, but I don't
01:07PM 21 want to get into the Serio conspiracy.

01:07PM 22 **MR. FOTI:** Yeah, I think the jury hears "operation,"
01:07PM 23 they're going to assume it relates to something involving
01:07PM 24 between Anthony Gerace and Peter Gerace, and we know factually
01:07PM 25 that that's not the case, so I'm worried about the unfair

01:07PM 1 prejudice.

01:07PM 2 **THE COURT:** You can clear that up.

01:07PM 3 **MR. FOTI:** We certainly could, but we -- we don't
01:07PM 4 want to do it at risk of an argument being presented that now
01:07PM 5 they've opened the door to other things.

01:07PM 6 **THE COURT:** He can certainly say right now --

01:07PM 7 **MR. TRIPI:** You don't want me to ask that question,
01:07PM 8 I'm sure.

01:07PM 9 **THE COURT:** There may be a way to do it, but I don't
01:07PM 10 think that without thinking of a Serio conspiracy.

01:08PM 11 **MR. FOTI:** I don't think so either, it's a reference
01:08PM 12 to a conspiracy involving Peter Gerace.

01:08PM 13 **MR. TRIPI:** It's Anthony, Judge. I'm sorry that he
01:08PM 14 was involved in drugs with his brother, and his brother was
01:08PM 15 involved in drugs with Ron Serio. But that's the reality of
01:08PM 16 life.

01:08PM 17 And he's already talked about Joe telling him he
01:08PM 18 stepped in for Anthony and Peter.

01:08PM 19 **THE COURT:** Yeah, and Anthony is involved in the
01:08PM 20 conspiracy that's at issue here in some ways.

01:08PM 21 **MR. FOTI:** Some ways in a very min -- it's certainly
01:08PM 22 not an operation.

01:08PM 23 **THE COURT:** I agree. Well --

01:08PM 24 **MR. FOTI:** The testimony that we've heard is Anthony
01:08PM 25 gave Peter drugs once when Peter came over with his girlfriend

01:08PM 1 late at night, and that Anthony has sold drugs a couple times
01:08PM 2 in Pharaoh's.

01:08PM 3 **THE COURT:** Do you want me to tell the jury to strike
01:08PM 4 the whole operation and let Mr. Tripi reword it a little
01:08PM 5 differently with questions?

01:08PM 6 **MR. TRIPI:** Personally, I think that it's right over
01:08PM 7 their head, and all we're doing is drawing attention to it.

01:09PM 8 **THE COURT:** So do I.

01:09PM 9 **MR. TRIPI:** Yeah, I get it, I get it.

01:09PM 10 **MR. FOTI:** So we won't ask for the instruction.

01:09PM 11 **THE COURT:** You don't want it, right? The next
01:09PM 12 question, right? And let's keep it tight.

01:09PM 13 (End of sidebar discussion.)

01:09PM 14 **THE COURT:** Mr. Selva, I want you to speak up right
01:09PM 15 into the microphone, please.

01:09PM 16 **THE WITNESS:** Yes, Your Honor.

01:09PM 17 **BY MR. TRIPI:**

01:09PM 18 Q. In your discussion with Mr. Bongiovanni as part of it,
01:09PM 19 just listen to this question, as part of your discussion as
01:09PM 20 you walked with Mr. Bongiovanni in the vicinity of Delaware
01:09PM 21 Park, did Mr. Bongiovanni tell you he was concerned that
01:09PM 22 Anthony would flip because Mr. Bongiovanni had helped him
01:09PM 23 before, and he had helped him on a prior arrest?

01:09PM 24 A. Yes.

01:09PM 25 Q. Was Bongiovanni concerned about that?

01:09PM 1 A. He was.

01:09PM 2 Q. And is that what you talked about earlier when you
01:10PM 3 referenced him stepping in regarding Amherst police?

01:10PM 4 A. Correct.

01:10PM 5 Q. Okay. All right. I'm going to hand you an exhibit,
01:10PM 6 Government Exhibit 208D. I'm going to ask you to just take a
01:10PM 7 look at it, and when you're done, look up.

01:10PM 8 **MR. TRIPI:** Do you need to see it?

01:10PM 9 **MR. SOEHNLEIN:** Can I?

01:11PM 10 **BY MR. TRIPI:**

01:11PM 11 Q. Okay. I'm going to hand you up two exhibits. Government
01:11PM 12 Exhibit 208D and Government Exhibit 208K. Take a moment and
01:11PM 13 look at these and then I'm going to have some questions about
01:11PM 14 them, okay?

01:11PM 15 A. Okay.

01:11PM 16 Q. Did you have a chance to look at those?

01:12PM 17 A. I did.

01:12PM 18 Q. Starting at Exhibit 208D, do you recognize that?

01:12PM 19 A. I do.

01:12PM 20 Q. Now going back in time for a moment, back on August 23rd,
01:12PM 21 2019 when the search warrant was executed at your residence,
01:12PM 22 I think yesterday you indicated that you gave your cell phone
01:12PM 23 to HSI for them to search; is that right?

01:13PM 24 A. That's correct.

01:13PM 25 Q. And is it your understanding they extracted the data from

01:13PM 1 your phone and then returned your cell phone?

01:13PM 2 A. Yes.

01:13PM 3 Q. And since that time, you've looked at the data extracted
01:13PM 4 from your phone, and you've verified that was from your
01:13PM 5 phone, correct?

01:13PM 6 A. Correct.

01:13PM 7 Q. Now looking at Exhibit 208D, does that contain contacts
01:13PM 8 that were in your phone at that time?

01:13PM 9 A. It does, yes.

01:13PM 10 Q. And do you recognize it because you reviewed it and
01:13PM 11 initialed it?

01:13PM 12 A. I do, yes.

01:13PM 13 Q. And you recognize the contacts that were in the phone as
01:13PM 14 being contacts you had?

01:13PM 15 A. Yes.

01:13PM 16 Q. Does that Exhibit 208D fairly and accurately depict
01:13PM 17 contacts that were in your phone as of August 23rd, 2019?

01:13PM 18 A. They do, yes.

01:13PM 19 Q. Turning to Exhibit 208K.

01:13PM 20 A. Okay.

01:13PM 21 Q. Do you remember doing some internet searches on your
01:13PM 22 phone?

01:13PM 23 A. Yes.

01:13PM 24 Q. Did some of those internet searches -- were you trying to
01:13PM 25 find out information about Anthony Gerace during the summer

01:14PM 1 of 2019?

01:14PM 2 A. Yes.

01:14PM 3 Q. Do you recognize 208K to be searches that you did on your
01:14PM 4 phone looking for information about Anthony Gerace?

01:14PM 5 A. Yes.

01:14PM 6 Q. Do those fairly and accurately depict searches you did in
01:14PM 7 your phone for Anthony Gerace?

01:14PM 8 A. Yes.

01:14PM 9 **MR. TRIPI:** The government offers 208D and 208K,
01:14PM 10 Your Honor.

01:14PM 11 **MR. SOEHNLEIN:** No objection.

01:14PM 12 **THE COURT:** Received without objection.

01:14PM 13 **(GOV Exhibits 208D, 208K were received in evidence.)**

01:14PM 14 **BY MR. TRIPI:**

01:14PM 15 Q. I'd like to go through first 208D. We're winding down,
01:14PM 16 Mr. Selva. We have a couple more things to cover, but we're
01:14PM 17 almost done.

01:14PM 18 A. Okay.

01:14PM 19 **MR. TRIPI:** Okay. Ms. Champoux, can we zoom in on
01:14PM 20 the contact number 1?

01:14PM 21 **BY MR. TRIPI:**

01:14PM 22 Q. Did you have a contact in your phone for Anthony Gerace
01:14PM 23 with a phone number?

01:14PM 24 A. Yes.

01:14PM 25 Q. Okay.

01:15PM 1 **MR. TRIPI:** You can zoom out of that.

01:15PM 2 **BY MR. TRIPI:**

01:15PM 3 Q. Did you have several contact numbers for Mike Masecchia?

01:15PM 4 A. Yes.

01:15PM 5 Q. And that was someone whose name we saw in the contacts
01:15PM 6 for Mr. Gerace's phone earlier?

01:15PM 7 A. Yes.

01:15PM 8 Q. In your contacts, how did you have Mr. Masecchia's saved?

01:15PM 9 A. The name under --

01:15PM 10 Q. Yeah.

01:15PM 11 A. His nickname was the Gorilla.

01:15PM 12 Q. Okay. So when we see, Gorilla ape, Gorilla new number,
01:15PM 13 Gorilla, Grover Gorilla, are those references to Masecchia?

01:15PM 14 A. Yes.

01:15PM 15 **MR. TRIPI:** So let's go to the next page,
01:15PM 16 Ms. Champoux.

01:15PM 17 **BY MR. TRIPI:**

01:15PM 18 Q. Contact number 8, do you see that?

01:15PM 19 A. Yes.

01:15PM 20 Q. Is that a phone number you had for Joe Bongiovanni, two
01:15PM 21 phone numbers?

01:15PM 22 A. Yes.

01:15PM 23 Q. Now were those phone numbers you had received regarding
01:15PM 24 him after he separated from the DEA?

01:16PM 25 A. One, yes. Well, one of them was.

01:16PM 1 Q. Was his DEA phone number, if you recall it, 818 -- an 818
01:16PM 2 number?

01:16PM 3 A. It was.

01:16PM 4 Q. So these are two other numbers you had?

01:16PM 5 A. Yes.

01:16PM 6 **MR. TRIPI:** Okay. Zoom out of that.

01:16PM 7 **BY MR. TRIPI:**

01:16PM 8 Q. Contact number 10. You have Mr. Bongiovanni's wife's
01:16PM 9 phone number's as well?

01:16PM 10 A. Yes.

01:16PM 11 Q. And we saw her in one of the photos earlier in your
01:16PM 12 testimony, correct?

01:16PM 13 A. Yes.

01:16PM 14 Q. Okay.

01:16PM 15 **MR. TRIPI:** We can zoom out of that. Scroll down a
01:16PM 16 little bit to contact 11, please.

01:16PM 17 **BY MR. TRIPI:**

01:16PM 18 Q. Okay. Who's that?

01:16PM 19 A. That's Lillo Brancato, the actor who was actually friends
01:16PM 20 with Kim Mecca who you mentioned earlier.

01:16PM 21 Q. Okay.

01:16PM 22 A. And I got to know him through her.

01:16PM 23 Q. And what were some of the movies or shows he's been in?

01:17PM 24 A. He was in the movie a Bronx Tale, a few other ones. He
01:17PM 25 was on The Sopranos, I think Crimson Tide.

01:17PM 1 Q. We're gonna pause here for a moment.

01:17PM 2 **MR. TRIPI:** Ms. Champoux, can we switch back to
01:17PM 3 Exhibit 310D now? Bear with me just a moment.

01:18PM 4 Okay. Ms. Champoux, could we go to a message,
01:18PM 5 March 6th, 2016, at 8:53 p.m. I can't give you a page number
01:18PM 6 because this isn't numbered, but if you can scroll down to a
01:18PM 7 March 6th, 2016 message in Exhibit 310D.

01:18PM 8 2016, yeah, March 6th. There you go.

01:18PM 9 **BY MR. TRIPI:**

01:18PM 10 Q. All right. Do you see a photograph there of two people
01:18PM 11 on Exhibit 310D?

01:18PM 12 A. Yes.

01:18PM 13 Q. Okay. Who do you see in that photo?

01:19PM 14 A. Lillo Brancato and Mr. Gerace.

01:19PM 15 Q. Okay. That's the same Lillo Brancato that you have
01:19PM 16 stored in your phone, correct?

01:19PM 17 A. Yes.

01:19PM 18 **MR. TRIPI:** Let's go back to Exhibit 208D. We'll
01:19PM 19 look at contact 13, scrolling a little bit.

01:19PM 20 **BY MR. TRIPI:**

01:19PM 21 Q. Is that another number you had for Mike Masecchia?

01:19PM 22 A. Yes.

01:19PM 23 Q. Okay.

01:19PM 24 **MR. TRIPI:** Let's go to the contact under that,
01:19PM 25 contact 14.

01:19PM 1 **BY MR. TRIPI:**

01:19PM 2 Q. Did you have a contact for Michael Sinatra?

01:19PM 3 A. Yes.

01:19PM 4 Q. Is that the same person we saw in that Exhibit 126 a
01:19PM 5 moment ago?

01:19PM 6 A. Yeah.

01:19PM 7 Q. The photograph?

01:19PM 8 A. Yes.

01:19PM 9 Q. Okay. It's the same person who was in the picture with
01:19PM 10 Mr. Bongiovanni?

01:19PM 11 A. Yes, sir.

01:19PM 12 **MR. TRIPI:** Okay. Scroll out of that.

01:19PM 13 **BY MR. TRIPI:**

01:20PM 14 Q. And we went through phone records earlier where you were
01:20PM 15 in contact with Mr. Gerace, but you had him as a contact in
01:20PM 16 your phone, and you had his number saved; is that right?

01:20PM 17 A. That's correct.

01:20PM 18 **MR. TRIPI:** Okay. We can zoom out of that. If we
01:20PM 19 can zoom in on 18 and 19.

01:20PM 20 **BY MR. TRIPI:**

01:20PM 21 Q. When we were looking through contacts for Mr. Gerace's
01:20PM 22 phone, we saw a person named Wayne Anderson. Do you also
01:20PM 23 have Wayne Anderson's contact information?

01:20PM 24 A. Yes.

01:20PM 25 Q. Is he someone you've known for a long time?

01:20PM 1 A. Yes.

01:20PM 2 Q. Is that someone who also knows Mr. Bongiovanni?

01:20PM 3 A. Yes.

01:20PM 4 Q. By the way, does Mr. Maseccchia also know Mr. Bongiovanni?

01:20PM 5 A. He does.

01:20PM 6 Q. For a long time?

01:20PM 7 A. He does.

01:20PM 8 Q. Since childhood?

01:20PM 9 A. Since childhood, yes.

01:20PM 10 **MR. TRIPI:** Keep scrolling down. Stop there.

01:20PM 11 **BY MR. TRIPI:**

01:20PM 12 Q. Okay. Now earlier in Mr. Gerace's phone, we looked at a
01:20PM 13 person named Turtle; do you remember that?

01:20PM 14 A. Yes.

01:20PM 15 Q. And now you have a contact named Donnie Panepinto?

01:21PM 16 A. That's Mr. Panepinto's son.

01:21PM 17 Q. So the Donnie that you have in your phone is Turtle's
01:21PM 18 son?

01:21PM 19 A. Yes.

01:21PM 20 Q. And I think you indicated already that Mr. Bongiovanni
01:21PM 21 previously dated Dana?

01:21PM 22 A. Yes.

01:21PM 23 **MR. TRIPI:** We can zoom out of that. Are we at the
01:21PM 24 bottom?

25

01:21PM

1 BY MR. TRIPI:

2 Q. And the last one there was a Frank Tripi in Mr. Gerace's
3 phone; do you remember that?

4 A. Yes.

5 Q. Exhibit 310AT, to be specific, do you remember you looked
6 at that?

7 A. Yes, I do. Yes.

8 Q. Remember I showed you the first page?

9 A. Yes.

10 Q. Do you see a Frank Tripi spelled with one P this time?

11 A. Yes.

12 Q. Again, no relation to mine though?

13 A. Correct.

14 MR. TRIPI: We can take that down, I think.

15 Oops, we've got more. Keep going.

16 Stop a little bit. Keep going.

17 BY MR. TRIPI:

18 Q. Oh, yeah, we've talked about Tom Napoli. You also had
19 contact for him in terms of Facebook and phone numbers; is
20 that right?

21 A. That's correct.

22 MR. TRIPI: Are we at the bottom?

23 MS. CHAMPOUX: Yep.

24 MR. TRIPI: Okay. We can take that down, thank you
25 very much.

01:22PM 1 All right. We're going to switch over to Exhibit
01:22PM 2 208K now, and go to -- I think the second page of that.

01:22PM 3 If we can zoom in on the searched items.

01:22PM 4 **BY MR. TRIPPI:**

01:22PM 5 Q. After Mr. Gerace -- Anthony Gerace's house was searched
01:22PM 6 in January, and after Mr. Bongiovanni's house was searched in
01:22PM 7 June, did you start to search for information about Anthony
01:22PM 8 Gerace on the internet?

01:22PM 9 A. Yes.

01:22PM 10 Q. Were you trying to get information about his case?

01:23PM 11 A. Yes.

01:23PM 12 Q. Was that at the time you were becoming increasingly
01:23PM 13 concerned?

01:23PM 14 A. Yes.

01:23PM 15 Q. About two months after you did -- a little less than two
01:23PM 16 months after you did your first search on June 30th, 2019,
01:23PM 17 down at the bottom here, was your house searched?

01:23PM 18 A. Yes.

01:23PM 19 Q. How many times after the warrant was executed at
01:23PM 20 Mr. Bongiovanni's house did he meet with you and remind you
01:23PM 21 that the cover story was to pretend that you were his
01:23PM 22 informant?

01:23PM 23 A. A few times.

01:23PM 24 Q. More than once?

01:23PM 25 A. More than once.

01:23PM 1 Q. More than twice?

01:23PM 2 A. More than twice, yes.

01:23PM 3 Q. Were those in public places or at his house?

01:23PM 4 A. At his house. And then I believe one time we were in a
01:24PM 5 public place, a bar. But mostly the -- it was at his house,
01:24PM 6 yes.

01:24PM 7 Q. You remember several meetings?

01:24PM 8 A. Yes, it was --

01:24PM 9 **MR. TRIPI:** One moment, please, Your Honor.

01:24PM 10 **THE COURT:** Yes.

01:24PM 11 **BY MR. TRIPI:**

01:24PM 12 Q. I think I skipped over one thing, so we're almost done.

01:24PM 13 **MR. TRIPI:** Can you pull up 109AB?

01:24PM 14 **THE COURT:** In evidence?

01:24PM 15 **MR. TRIPI:** Yeah, it is in evidence, Judge.

01:24PM 16 **BY MR. TRIPI:**

01:24PM 17 Q. Is this a car, do you recognize this?

01:24PM 18 A. Yes.

01:24PM 19 Q. Did you take that photo of Mr. Bongiovanni in that
01:24PM 20 vehicle?

01:24PM 21 A. I did, yes.

01:24PM 22 Q. When Mr. Bongiovanni first purchased that vehicle, did it
01:24PM 23 look like that? Was it in that condition? Or did he restore
01:25PM 24 it?

01:25PM 25 A. He restored it.

01:25PM 1 Q. Did he do a lot of work on it as far as you know?

01:25PM 2 A. Yes.

01:25PM 3 Q. Did that happen as his financial condition improved?

01:25PM 4 A. Yes.

01:25PM 5 **MR. TRIPI:** Okay. Nothing further, Judge.

01:25PM 6 **THE COURT:** Mr. Soehnlein.

01:25PM 7

01:25PM 8 **CROSS-EXAMINATION BY MR. SOEHNLEIN:**

01:25PM 9 Q. Mr. Selva, what is a cooperation agreement?

01:25PM 10 A. What is a cooperation agreement?

01:25PM 11 Q. Yeah. Yeah.

01:25PM 12 A. That I'm gonna tell the truth, I mean, I was signed -- I
01:25PM 13 signed an agreement with them.

01:25PM 14 Q. And you haven't been charged with a crime, correct?

01:25PM 15 A. No.

01:25PM 16 Q. And the cooperation agreement doesn't necessarily
01:25PM 17 contemplate you will be charged with a crime, correct?

01:25PM 18 A. There's nothing guaranteed.

01:25PM 19 Q. Yeah. And that's an agreement between yourself and the
01:25PM 20 United States Attorney's Office, correct?

01:25PM 21 A. Correct.

01:25PM 22 Q. And these prosecutors behind me, they're from the same
01:26PM 23 United States Attorney's Office that you have that agreement
01:26PM 24 with, correct?

01:26PM 25 A. Correct.

01:26PM 1 Q. And that United States Attorney's Office is the same
01:26PM 2 office that will decide whether or not to bring charges
01:26PM 3 against you, correct?

01:26PM 4 A. Yes.

01:26PM 5 Q. Now, as part of that cooperation agreement, you have to
01:26PM 6 show up whenever they want you to show up, correct?

01:26PM 7 A. Correct.

01:26PM 8 Q. You have to testify whenever they want you to testify,
01:26PM 9 correct?

01:26PM 10 A. Correct.

01:26PM 11 Q. You have to meet with them whenever they want to meet
01:26PM 12 with you, correct?

01:26PM 13 A. Correct.

01:26PM 14 Q. And with respect to this case, how many different times
01:26PM 15 did they change the date of your testimony?

01:26PM 16 A. Today? I don't know, a few. I'm not, you know.

01:26PM 17 Q. Yeah, they kept changing the date on you, correct?

01:26PM 18 A. Correct.

01:26PM 19 Q. And you never told them that you couldn't be there,
01:26PM 20 correct?

01:26PM 21 A. No.

01:26PM 22 Q. You never told them that you had any scheduling issues or
01:26PM 23 anything like that, correct?

01:26PM 24 A. Any time I was told, I'd rearranged my schedule.

01:26PM 25 Q. Yeah.

01:26PM 1 A. The work schedule.

01:26PM 2 Q. Yeah. Because this is the most important thing going on
01:26PM 3 for you right now, correct?

01:26PM 4 A. It's important, yes.

01:26PM 5 Q. Well, it's not just important, it's the most important
01:27PM 6 thing?

01:27PM 7 A. Yes.

01:27PM 8 Q. I mean, because depending on how you do here is -- is
01:27PM 9 going to play into whether or not you're ever charged
01:27PM 10 correct?

01:27PM 11 **MR. TRIPI:** Objection.

01:27PM 12 **THE COURT:** Overruled.

01:27PM 13 **THE WITNESS:** Correct.

01:27PM 14 **BY MR. SOEHNLEIN:**

01:27PM 15 Q. Yeah. And that decision, the judge doesn't make the
01:27PM 16 decision of whether or not you're charged, correct?

01:27PM 17 A. Correct.

01:27PM 18 Q. And your lawyer doesn't get to make that decision of
01:27PM 19 whether or not you're charged, correct?

01:27PM 20 A. Correct.

01:27PM 21 Q. That's only the United States Attorney's Office, correct?

01:27PM 22 A. That's correct.

01:27PM 23 Q. Okay. So you've got a lot on the line here, correct?

01:27PM 24 A. Correct.

01:27PM 25 Q. Might be one of the most important days of your life,

01:27PM 1 right?

01:27PM 2 A. Correct.

01:27PM 3 Q. Okay. Now, on -- on August 23rd, 2019, your house was
01:27PM 4 searched; do you recall that?

01:27PM 5 A. That's correct.

01:27PM 6 Q. The search was early in the morning, correct?

01:27PM 7 A. It was.

01:27PM 8 Q. Flash bangs?

01:27PM 9 A. Yes, they broke the door down.

01:28PM 10 Q. Yeah. Do you recall how many agents came into your
01:28PM 11 house?

01:28PM 12 A. I don't remember. There was a bunch of them. I don't,
01:28PM 13 there was numerous.

01:28PM 14 Q. Yeah. And you weren't expecting that to happen, correct?

01:28PM 15 A. No.

01:28PM 16 Q. Yeah. That was very scary, wasn't it?

01:28PM 17 A. Yes. It was scary, yes.

01:28PM 18 Q. You were in the house?

01:28PM 19 A. Yes.

01:28PM 20 Q. You were asleep?

01:28PM 21 A. No.

01:28PM 22 Q. No? You were awake?

01:28PM 23 A. I was actually having a cup of coffee getting ready to go
01:28PM 24 to work.

01:28PM 25 Q. And you were getting ready to go to work as an Erie

01:28PM 1 County sheriff, correct?

01:28PM 2 A. Yes.

01:28PM 3 Q. Sheriff's deputy, I should say.

01:28PM 4 A. Correct.

01:28PM 5 Q. You work at the holding center, correct?

01:28PM 6 A. Correct.

01:28PM 7 Q. And you'd had that job for a couple of years at that

01:28PM 8 point?

01:28PM 9 A. No, I just -- I had just gotten it in March, so --

01:28PM 10 Q. Okay.

01:28PM 11 A. Six months.

01:28PM 12 Q. Okay. And before that, you had gone through the academy

01:28PM 13 and the training, correct?

01:28PM 14 A. Correct. The academy was 12 weeks, yes.

01:28PM 15 Q. So you had gone through 12 weeks of training, and then

01:28PM 16 you had the job about six months at that point?

01:28PM 17 A. Correct.

01:28PM 18 Q. And you were getting ready to go to work, correct?

01:29PM 19 A. Correct.

01:29PM 20 Q. And Ms. Mecca was there with you, as well?

01:29PM 21 A. She was.

01:29PM 22 Q. And she was your girlfriend at the time?

01:29PM 23 A. Correct.

01:29PM 24 Q. And how long had you been together?

01:29PM 25 A. A few years. Almost three years.

01:29PM 1 Q. And -- and that was a stressful experience, correct?

01:29PM 2 A. Yes.

01:29PM 3 Q. Describe what thoughts were going through your head.

01:29PM 4 A. Well, it was startling. First -- there were a lot of
01:29PM 5 thoughts.

01:29PM 6 Q. You were thinking about your future, correct?

01:29PM 7 A. Correct.

01:29PM 8 Q. You were thinking about the people who were closest to
01:29PM 9 you?

01:29PM 10 A. Correct.

01:29PM 11 Q. You were hoping you weren't going to go to jail?

01:29PM 12 A. Correct.

01:29PM 13 Q. You were hoping maybe you could keep your job, correct?

01:29PM 14 A. I knew -- well, the thought was going through my mind
01:29PM 15 that I'd have to resign.

01:29PM 16 Q. Okay. And you resigned that day?

01:29PM 17 A. I resigned that day.

01:29PM 18 Q. Yeah. You went into work, and you resigned, correct?

01:29PM 19 A. After I called my attorney, yes.

01:29PM 20 Q. Okay. And because you had some law enforcement training,
01:29PM 21 you did have law enforcement training before that, correct?

01:30PM 22 A. I did, correct?

01:30PM 23 Q. We talked about that.

01:30PM 24 A. And immediately, you met with the people that were
01:30PM 25 searching your house, correct?

01:30PM 1 A. Not immediately. I mean the few days later it was on
01:30PM 2 the --

01:30PM 3 Q. Well, that day, you consented to a search of your cell
01:30PM 4 phone, correct?

01:30PM 5 A. Correct.

01:30PM 6 Q. And you gave some statements to law enforcement, correct?

01:30PM 7 A. Correct.

01:30PM 8 Q. You told them some information, correct?

01:30PM 9 A. Correct.

01:30PM 10 Q. All right. Even though you understood you had a right to
01:30PM 11 remain silent, correct?

01:30PM 12 A. Correct. It was general information.

01:30PM 13 Q. Okay. But you shared that information with them,
01:30PM 14 correct?

01:30PM 15 A. Yes.

01:30PM 16 Q. And then you made arrangements to meet with them again on
01:30PM 17 Monday, correct?

01:30PM 18 A. Yes, with my attorney.

01:30PM 19 Q. Yeah. Because the search was on a Friday morning,
01:30PM 20 correct?

01:30PM 21 A. Correct.

01:30PM 22 Q. Okay. So you didn't hesitate to cooperate, correct?

01:30PM 23 A. I didn't hesitate to speak to them, no.

01:30PM 24 Q. In fact, you were eager to speak with them, correct?

01:30PM 25 A. I wanted to speak to them, yes.

01:30PM 1 Q. Yeah. Yeah. Over the weekend, you were thinking through
01:30PM 2 all these issues on Saturday and Sunday, correct?

01:30PM 3 A. Correct.

01:30PM 4 Q. You're worried about your future, correct?

01:31PM 5 A. Correct.

01:31PM 6 Q. You were worried about whether or not you're gonna get
01:31PM 7 charged with a crime, correct?

01:31PM 8 A. Correct.

01:31PM 9 Q. You're worried about whether or not you're gonna go to
01:31PM 10 prison, correct?

01:31PM 11 A. Sure, correct.

01:31PM 12 Q. You're thinking about the people who are close to you?

01:31PM 13 A. Correct.

01:31PM 14 Q. You're thinking about what impact that would have on them
01:31PM 15 if you had to go to prison, correct?

01:31PM 16 A. Correct.

01:31PM 17 Q. You're thinking about your family?

01:31PM 18 A. Correct.

01:31PM 19 Q. All right. And so then you went ahead and you met with
01:31PM 20 law enforcement on August 26th of 2019 at the U.S. Attorney's
01:31PM 21 Office, correct?

01:31PM 22 A. Correct.

01:31PM 23 Q. That was the first time that you sat down to cooperate,
01:31PM 24 correct?

01:31PM 25 A. That's correct.

01:31PM 1 Q. And you knew from your law enforcement training that it
01:31PM 2 was important to be truthful, correct?

01:31PM 3 A. Correct.

01:31PM 4 Q. And honest, correct?

01:31PM 5 A. Correct.

01:31PM 6 Q. And you also knew that you'd get more cooperation credit
01:31PM 7 if you shared more information, correct?

01:31PM 8 A. That's correct.

01:31PM 9 Q. And that's consistent with the cooperation agreement,
01:31PM 10 right?

01:31PM 11 A. Correct.

01:31PM 12 Q. The agreement you have in place now, correct?

01:31PM 13 A. Correct.

01:31PM 14 Q. The more you give, the more you get, right?

01:32PM 15 A. I guess. I'm not sure. Nothing's been guaranteed.

01:32PM 16 Q. Right. Well, you wouldn't be here today if you didn't
01:32PM 17 think was gonna help you, would you?

01:32PM 18 A. Correct.

01:32PM 19 Q. You're not enjoying this, correct?

01:32PM 20 A. Correct.

01:32PM 21 Q. All right. And you've done this a couple of times now,
01:32PM 22 right?

01:32PM 23 A. Correct.

01:32PM 24 Q. In other matters, correct?

01:32PM 25 A. Correct.

01:32PM 1 Q. Okay. Now, you met with law enforcement on August 26th,
01:32PM 2 2019 with your lawyer, right?

01:32PM 3 A. Correct.

01:32PM 4 Q. Okay. And so I don't want to get into the substance of
01:32PM 5 the conversation, but you knew you that part of the proffer
01:32PM 6 was being honest, correct?

01:32PM 7 A. Correct.

01:32PM 8 Q. And you were not honest, right?

01:32PM 9 A. Not fully at that point, no.

01:32PM 10 Q. No. Because later, on direct, they talk about how on
01:32PM 11 September 4th, you had a polygraph exam you that failed,
01:32PM 12 correct?

01:32PM 13 A. That's correct.

01:32PM 14 Q. Okay. And so at the first proffer, you were not honest,
01:32PM 15 correct?

01:32PM 16 A. Correct.

01:32PM 17 Q. All right. And that's a crime, correct?

01:32PM 18 A. Well, we would -- more information was coming out.

01:33PM 19 Q. Okay. More information was coming out as they confronted
01:33PM 20 you with it, right?

01:33PM 21 A. Correct.

01:33PM 22 Q. Yeah. You would give one set of facts, correct?

01:33PM 23 A. Correct.

01:33PM 24 Q. And then the prosecutors would confront you with another
01:33PM 25 set of facts, correct?

01:33PM 1 A. Correct.

01:33PM 2 Q. Okay. And ultimately, it came out that be were being
01:33PM 3 untruthful, correct?

01:33PM 4 A. On the polygraph, yes.

01:33PM 5 Q. Yeah. Now they didn't charge you with obstruction that
01:33PM 6 the time, correct?

01:33PM 7 A. No.

01:33PM 8 Q. No. They didn't charge you with making a false statement
01:33PM 9 at that time, correct?

01:33PM 10 A. No.

01:33PM 11 Q. They met with you further, correct?

01:33PM 12 A. Correct.

01:33PM 13 Q. All right. They met with you again -- so we talked about
01:33PM 14 August 26th of 2019, and then you took that polygraph on
01:33PM 15 September 4th, 2019, correct?

01:33PM 16 A. Correct.

01:33PM 17 Q. And then you met with them again on September 19th, 2019?

01:33PM 18 A. That's correct.

01:33PM 19 Q. And then you met with them again on October 1st, 2019,
01:33PM 20 correct?

01:33PM 21 A. That's correct.

01:33PM 22 Q. And you met with them again on October 3rd, 2019,
01:33PM 23 correct?

01:33PM 24 A. That's correct.

01:33PM 25 Q. And you with met with them again on October 25th, 2019,

01:34PM 1 correct?

01:34PM 2 A. That's correct.

01:34PM 3 Q. Okay. And then eventually, you got into that cooperation
01:34PM 4 agreement in May of 2020, correct?

01:34PM 5 A. Correct.

01:34PM 6 Q. And you recall that. You came down to the U.S.

01:34PM 7 Attorney's Office with your attorney, correct?

01:34PM 8 A. That's correct.

01:34PM 9 Q. And then they had a further interview with you that day
01:34PM 10 too?

01:34PM 11 A. That's correct.

01:34PM 12 Q. Okay. Now, these interviews, who are you meeting with
01:34PM 13 during the course of these interviews? Who do you recall?

01:34PM 14 A. The U.S. Attorney and their teams.

01:34PM 15 Q. Okay. And so what specific individuals?

01:34PM 16 A. U.S. Attorney Joe Tripi.

01:34PM 17 **MR. TRIPI:** Assistant. Assistant.

01:34PM 18 **THE WITNESS:** Assistant, I'm sorry.

01:34PM 19 **MR. TRIPI:** Don't promote me.

01:34PM 20 **THE WITNESS:** Brian Burns. Marilyn Halliday.

01:34PM 21 Nicholas Cooper.

01:34PM 22 **BY MR. SOEHNLEIN:**

01:34PM 23 Q. Is there anybody sitting at the two tables behind me
01:34PM 24 today that you didn't meet with in the course of your
01:34PM 25 cooperation?

01:34PM 1 A. I believe so, yes.

01:34PM 2 Q. You met with all of them, correct?

01:34PM 3 A. Yes.

01:34PM 4 Q. Those are the people who were in the room, correct?

01:34PM 5 A. Yes.

01:35PM 6 Q. And there were some additional agents as well at certain

01:35PM 7 times, correct?

01:35PM 8 A. Yes.

01:35PM 9 Q. So, you get that cooperation agreement in May 2020

01:35PM 10 correct?

01:35PM 11 A. Correct.

01:35PM 12 Q. Correct? And then you meet with them again in September

01:35PM 13 of 2020, correct?

01:35PM 14 A. Correct.

01:35PM 15 Q. Okay. And then you meet with them again in March of

01:35PM 16 2021, correct? On March 4th?

01:35PM 17 A. Correct.

01:35PM 18 Q. And you meet with them again on March 10th of 2021,

01:35PM 19 correct?

01:35PM 20 A. Correct.

01:35PM 21 Q. And then you meet with them on August 18th of 2023,

01:35PM 22 correct?

01:35PM 23 A. Correct.

01:35PM 24 Q. And then you meet with them on August 30th of 2023,

01:35PM 25 correct?

01:35PM 1 A. That's correct.

01:35PM 2 Q. And then you meet with them again on September 8th of

01:35PM 3 2023, correct?

01:35PM 4 A. Correct.

01:35PM 5 Q. And then you meet with them again on September 15th,

01:35PM 6 2023, correct?

01:35PM 7 A. Correct.

01:35PM 8 Q. And then you meet with them again on September 26th of

01:35PM 9 2023, correct?

01:35PM 10 A. Correct.

01:35PM 11 Q. And then you meet with them again on October 16th of

01:35PM 12 2023, correct?

01:35PM 13 A. Correct.

01:35PM 14 Q. And then you meet with them on January 31st of 2024,

01:35PM 15 correct?

01:35PM 16 A. Correct.

01:35PM 17 Q. And then you meet with them again on February 4th of

01:35PM 18 2024, correct?

01:35PM 19 A. Correct.

01:35PM 20 Q. And then you meet with them again on February 18th of

01:36PM 21 2024, correct?

01:36PM 22 A. Correct.

01:36PM 23 Q. And then you meet with them again on February 19th of

01:36PM 24 2024, correct?

01:36PM 25 A. Correct.

01:36PM 1 Q. And then you met with them again in connection with this
01:36PM 2 testimony, correct?

01:36PM 3 A. With this?

01:36PM 4 Q. Yeah.

01:36PM 5 A. No.

01:36PM 6 Q. No? You haven't had any further meetings with them?

01:36PM 7 A. No.

01:36PM 8 Q. Okay. Now, in the time that you're having those
01:36PM 9 meetings, you understood that the more information you share,
01:36PM 10 the more you get out of cooperation, correct?

01:36PM 11 A. I guess.

01:36PM 12 Q. Yeah.

01:36PM 13 A. Correct.

01:36PM 14 Q. Well, it -- and you were trying to get as much
01:36PM 15 cooperation credit as you could, correct?

01:36PM 16 A. I was being honest with them.

01:36PM 17 Q. Okay. And sharing all the information that you knew,
01:36PM 18 correct?

01:36PM 19 A. Yes.

01:36PM 20 Q. And trying to be honest, correct?

01:36PM 21 A. I was.

01:36PM 22 Q. Although, well -- not fully honest, right?

01:36PM 23 A. Well --

01:36PM 24 Q. A swing and a miss the first time, right?

01:36PM 25 A. As we went further on, yes, it started, correct.

01:36PM 1 Q. All right. So I want to turn our attention just briefly.

01:37PM 2 You had some testimony about some statements with respect

01:37PM 3 to Anthony Gerace and a conversation you had with Joe

01:37PM 4 Bongiovanni; do you recall those statements?

01:37PM 5 A. Yes.

01:37PM 6 Q. Do you ever recall that testimony, correct?

01:37PM 7 A. Yes.

01:37PM 8 Q. All right. Now, you were an Erie County Sheriff's deputy

01:37PM 9 for a period of time, correct?

01:37PM 10 A. Correct.

01:37PM 11 Q. You went through the academy, correct?

01:37PM 12 A. Correct.

01:37PM 13 Q. And you understood that most things that are done in law

01:37PM 14 enforcement are documented, correct?

01:37PM 15 A. Correct.

01:37PM 16 Q. Usually if you interview a suspect, there's some sort of

01:37PM 17 report that's generated?

01:37PM 18 A. Yes.

01:37PM 19 Q. If there's a person of interest in respect to an

01:37PM 20 incident, usually there's something that's generated, right?

01:37PM 21 A. Correct.

01:37PM 22 Q. Because in law enforcement, not document means not done,

01:37PM 23 right?

01:37PM 24 A. Correct.

01:37PM 25 Q. Everything that law enforcement does is documented in

01:37PM 1 some way, shape, or form, correct?

01:37PM 2 A. Correct.

01:37PM 3 Q. To your knowledge, correct?

01:37PM 4 A. To my knowledge.

01:37PM 5 Q. And you were in law enforcement, correct?

01:37PM 6 A. Yes.

01:37PM 7 Q. Okay. At any point in time, have you ever seen a report

01:38PM 8 of Anthony Gerace having interaction with the Amherst Police

01:38PM 9 Department?

01:38PM 10 A. Did I ever see a report? No.

01:38PM 11 Q. You've never seen that?

01:38PM 12 A. No.

01:38PM 13 Q. All right. But from your knowledge, would that

01:38PM 14 information be readily available?

01:38PM 15 **MR. TRIPI:** Objection. 602.

01:38PM 16 **THE COURT:** Overruled.

01:38PM 17 **THE WITNESS:** I would not have readily availability

01:38PM 18 of that.

01:38PM 19 **BY MR. SOEHNLEIN:**

01:38PM 20 Q. No. But to law enforcement, it would be available

01:38PM 21 correct?

01:38PM 22 **MR. TRIPI:** Objection. Now we're arguing with the

01:38PM 23 witness.

01:38PM 24 **THE COURT:** Overruled.

01:38PM 25

01:38PM
1**BY MR. SOEHNLEIN:**01:38PM
2

Q. To law enforcement --

01:38PM
3

A. To law enforcement it would be, yes.

01:38PM
4

Q. Yeah. They'd be able to make a call or make a request and get that information, right?

01:38PM
6

A. Correct.

01:38PM
7

Q. It wouldn't be hard to find, right?

01:38PM
8

A. Correct.

01:38PM
9

Q. Okay. Now, you had some testimony about

01:38PM
10

Mr. Bongiovanni's child support and alimony; do you remember that?

01:38PM
11

A. Yes.

01:38PM
12

Q. Okay. Now, and you're divorced yourself, correct?

01:38PM
14

A. I am.

01:38PM
15

Q. Child-support payments are either an agreement between the parties or set by the Court?

01:38PM
17

A. Correct.

01:39PM
18

Q. And both parties usually have attorneys, correct?

01:39PM
19

A. Correct.

01:39PM
20

Q. And Mr. Bongiovanni had an attorney?

01:39PM
21

A. I believe so, yes.

01:39PM
22

Q. Yeah. And his wife had an attorney as well?

01:39PM
23

A. Yes.

01:39PM
24

Q. Okay. And so to your understanding, those agreements generally look at a person's income, correct?

01:39PM
25

01:39PM 1 A. Correct.

01:39PM 2 Q. And their earning potential, correct?

01:39PM 3 A. Correct.

01:39PM 4 Q. That's usually how the amount is set, correct?

01:39PM 5 A. That's correct.

01:39PM 6 Q. Okay. All right. I want to ask you some questions about

01:39PM 7 that Cabo wedding. Do you recall there was some -- there was

01:39PM 8 some testimony about you going --

01:39PM 9 A. Yes.

01:39PM 10 Q. -- to Cabo. Now you were Mr. Bongiovanni's best friend,

01:39PM 11 correct?

01:39PM 12 A. Yes, we were close, yes.

01:39PM 13 Q. Yeah. Well, best friends, right?

01:39PM 14 A. Yes.

01:39PM 15 Q. You considered him your best friend, correct?

01:39PM 16 A. Yes.

01:39PM 17 Q. Different than a normal friendship, best friends, right?

01:39PM 18 A. Correct.

01:39PM 19 Q. And you were the best man at that wedding, correct?

01:39PM 20 A. Yes.

01:39PM 21 Q. Okay. And you traveled to Cabo, right?

01:39PM 22 A. Yes.

01:39PM 23 Q. And other people traveled to Cabo, correct?

01:39PM 24 A. Yes.

01:39PM 25 Q. Okay. And Mr. Gerace did not go to Cabo, did he?

01:39PM 1 A. No.

01:39PM 2 Q. He was not there --

01:39PM 3 A. He was not.

01:39PM 4 Q. -- correct? Yeah.

01:40PM 5 Now, I think that you also had some testimony about some
01:40PM 6 trips that you thought that Mr. Bongiovanni took with

01:40PM 7 Mr. Gerace; do you recall that testimony?

01:40PM 8 A. Yes.

01:40PM 9 Q. And I think that -- that you said that one of the trips
01:40PM 10 was to Toronto; do you recall that?

01:40PM 11 A. Yes.

01:40PM 12 Q. You don't know that though, right?

01:40PM 13 A. I don't know that, but I -- I'm going by what
01:40PM 14 Mr. Bongiovanni had told me they had traveled together.

01:40PM 15 Q. Okay. Well, you recall that picture that Mr. Tripi
01:40PM 16 showed you that was kind of in a hotel lobby; do you remember
01:40PM 17 that?

01:40PM 18 A. I believe that was in Las Vegas, if I'm not mistaken.

01:40PM 19 Q. You believe that that one was in Las Vegas?

01:40PM 20 A. I don't know. That's one of the places he said they
01:40PM 21 traveled to.

01:40PM 22 Q. Okay. I'm talking about the one that's just all guys.

01:40PM 23 A. Yes, I don't know where the was at.

01:40PM 24 Q. All right. Mr. Gerace is not in that photo, right?

01:40PM 25 A. No, correct.

01:40PM 1 Q. You don't know where that photo was taken?

01:40PM 2 A. I don't, no.

01:40PM 3 Q. You don't know where that trip was to?

01:40PM 4 A. I don't.

01:40PM 5 Q. You know Mr. Gerace -- Peter Gerace was not there?

01:41PM 6 A. He was not in that photo, correct.

01:41PM 7 Q. Okay. We had some testimony last time we were here

01:41PM 8 whenever that was, a couple days ago, about respect growing

01:41PM 9 up, correct; do you recall that?

01:41PM 10 A. Yes.

01:41PM 11 Q. Conversations that you had had with Mr. Bongiovanni when
01:41PM 12 you were kids, correct?

01:41PM 13 A. Correct.

01:41PM 14 Q. All right. And fair to say those conversations were like
01:41PM 15 40 years ago, right?

01:41PM 16 A. Yeah, correct. Kids.

01:41PM 17 Q. These are conversations when you're in grammar school and
01:41PM 18 high school, correct?

01:41PM 19 A. Teenagers, yes.

01:41PM 20 Q. Yeah. Yeah. And -- and in -- in your upbringing, was it
01:41PM 21 important to respect your elders?

01:41PM 22 A. Yes.

01:41PM 23 Q. Was it important to be a gentleman?

01:41PM 24 A. Yes.

01:41PM 25 Q. Was it important to respect people who were known in the

01:41PM 1 community?

01:41PM 2 A. Yes.

01:41PM 3 Q. Was it important to the respect law enforcement?

01:41PM 4 A. Yes.

01:41PM 5 Q. Did you also respect sports stars and celebrities and
01:41PM 6 things like that?

01:41PM 7 A. Sure.

01:41PM 8 Q. Yeah. And Mr. Bongiovanni did all those things too,
01:42PM 9 correct?

01:42PM 10 A. Yes.

01:42PM 11 Q. He was a gentleman, right?

01:42PM 12 A. Yes.

01:42PM 13 Q. He wasn't mean to anybody, correct?

01:42PM 14 A. No.

01:42PM 15 Q. Now, there's some conversations -- strike that.

01:42PM 16 There was some testimony about Mr. Bongiovanni apparently
01:42PM 17 telling you to act like an informant, correct?

01:42PM 18 A. Correct.

01:42PM 19 Q. Now, he never told you that he told Mr. Gerace to act
01:42PM 20 like an informant, correct?

01:42PM 21 A. No.

01:42PM 22 Q. He never told you that, correct?

01:42PM 23 A. No.

01:42PM 24 Q. Okay. And that conversation with respect to his brother,
01:42PM 25 he told you that Peter had called him about Amherst, correct?

01:42PM 1 A. Correct.

01:42PM 2 Q. Peter didn't tell him what to do with respect to Amherst,
01:42PM 3 correct?

01:42PM 4 A. He said he asked for help.

01:42PM 5 Q. Okay. Just asked for help, correct?

01:42PM 6 A. That's correct.

01:42PM 7 Q. He asked for help, right?

01:42PM 8 A. Right, correct.

01:42PM 9 Q. Now, when you were in Erie County Sheriff's deputy, did
01:43PM 10 you know that other deputies would have friends or family
01:43PM 11 reach out to them for help?

01:43PM 12 A. Yes.

01:43PM 13 Q. Was that something that was commonplace?

01:43PM 14 A. Sure, if somebody -- yes.

01:43PM 15 Q. Okay. And they'd help out for -- or, strike that.

01:43PM 16 They would reach out for traffic matters maybe?

01:43PM 17 A. It -- yeah, I mean, it could be a few things, yes.

01:43PM 18 Q. Yeah. Any number of things, right?

01:43PM 19 A. Right.

01:43PM 20 Q. People have contact with law enforcement, and they call
01:43PM 21 someone they know in law enforcement for help, correct?

01:43PM 22 A. Correct.

01:43PM 23 Q. And when you were a sheriff's deputy, no one told that
01:43PM 24 all that was improper, correct?

01:43PM 25 A. Correct.

01:43PM 1 Q. That was commonplace, right?

01:43PM 2 A. I don't know if it was commonplace, no one ever told me
01:43PM 3 it was, you know, wrong.

01:43PM 4 Q. Okay. But when you learned about it, it didn't raise any
01:43PM 5 red flags for you, correct?

01:43PM 6 A. No.

01:43PM 7 Q. Okay. Now, we talked a little bit about the importance
01:43PM 8 much being honest; do you recall that testimony?

01:43PM 9 A. Yes.

01:43PM 10 Q. And the importance of being candid in your cooperation,
01:43PM 11 correct?

01:44PM 12 A. Correct.

01:44PM 13 Q. And we talked about how -- how it was important that --
01:44PM 14 important to you early on to share all the information that
01:44PM 15 you knew in the investigation, correct?

01:44PM 16 A. Correct. What I was asked, yes.

01:44PM 17 Q. Yeah. And in -- in the early parts of the investigation,
01:44PM 18 they were asking you questions about Mr. Gerace, correct?

01:44PM 19 A. At times, yes.

01:44PM 20 Q. They asked you questions about Pharaoh's, correct?

01:44PM 21 A. Yes.

01:44PM 22 Q. Okay. And -- and you didn't -- strike that.

01:44PM 23 And that started in 2019, we agreed, correct?

01:44PM 24 A. I believe so, yes.

01:44PM 25 Q. Okay. And you didn't share anything with law enforcement

01:44PM 1 about you and Mr. Bongiovanni going to Pharaoh's until
01:44PM 2 September of 2023, correct?

01:44PM 3 A. I don't recall. I don't remember when. But --

01:44PM 4 Q. Okay. Would reviewing the FBI report refresh your
01:44PM 5 recollection?

01:44PM 6 A. Yes.

01:44PM 7 **MR. SOEHNLEIN:** Can you show the witness 3540U?

01:44PM 8 **BY MR. SOEHNLEIN:**

01:45PM 9 Q. Okay. You'd agree with me the date on this document is
01:45PM 10 September 8th, 2023?

01:45PM 11 A. Yes.

01:45PM 12 Q. Okay. Thank you.

01:45PM 13 **MR. SOEHNLEIN:** Ms. Champoux, can you scroll down so
01:45PM 14 he can review it?

01:45PM 15 I think we have to go down a little further than
01:45PM 16 that.

01:45PM 17 Maybe a little further than that.

01:45PM 18 Maybe a little further than that. There we go.

01:45PM 19 **BY MR. SOEHNLEIN:**

01:45PM 20 Q. Do you see that right there?

01:45PM 21 A. Yes.

01:45PM 22 Q. Just read it, let me know when you're finished reviewing
01:45PM 23 it.

01:45PM 24 A. Okay.

01:45PM 25 Q. So you'd agree with me that you shared that information

01:46PM 1 in September of 2023, correct?

01:46PM 2 A. Correct. That's when it was brought up and asked,
01:46PM 3 correct.

01:46PM 4 Q. Well, hold on. But they had been asking you questions
01:46PM 5 about Pharaoh's for four years at that the point in time,
01:46PM 6 correct?

01:46PM 7 A. Not a lot. Just if I was familiar with it, and --

01:46PM 8 Q. But some, right?

01:46PM 9 A. Some, yeah.

01:46PM 10 Q. They asked you some?

01:46PM 11 A. Right.

01:46PM 12 Q. Familiar with it? You're talking about you went there
01:46PM 13 with the guy, right?

01:46PM 14 A. Right.

01:46PM 15 Q. You didn't say that for four years.

01:46PM 16 A. I really wasn't asked if I went there. I'm kind of
01:46PM 17 confused on the question.

01:46PM 18 Q. They asked you if you were familiar with it?

01:46PM 19 A. Yeah. And I told them on two occasions that I went.

01:46PM 20 Q. But they asked you that in 2019.

01:46PM 21 A. They asked me if I was familiar with it.

01:46PM 22 Q. Okay. And you didn't tell them that you had gone there
01:46PM 23 with Bongiovanni until 2023, correct?

01:46PM 24 A. Correct.

01:46PM 25 Q. Four years later, this information comes out that you and

01:46PM 1 Bongiovanni had gone to Pharaoh's, correct?

01:46PM 2 A. Correct.

01:46PM 3 Q. You didn't share it in 2019, right?

01:47PM 4 A. Okay.

01:47PM 5 Q. You didn't share it in 2020?

01:47PM 6 A. No.

01:47PM 7 Q. You didn't share it in 2021 --

01:47PM 8 A. No.

01:47PM 9 Q. -- right? You didn't share it in 2022?

01:47PM 10 A. No.

01:47PM 11 Q. You didn't share it until September of 2023.

01:47PM 12 A. Yeah. I believe that's when it was -- it came up again.

01:47PM 13 Q. All right. Now that's also the same time that you shared

01:47PM 14 this conversation about Anthony Gerace in the park, correct?

01:47PM 15 A. Correct.

01:47PM 16 Q. Now you know that they asked you questions about Anthony

01:47PM 17 Gerace, right?

01:47PM 18 A. Correct.

01:47PM 19 Q. And it comes out four years later, correct?

01:47PM 20 A. No, there was other questions asked before that.

01:47PM 21 Q. Okay. Now, you and Mr. Bongiovanni were best friends,

01:47PM 22 right?

01:47PM 23 A. Yes.

01:47PM 24 Q. Talked to each other almost every day, correct?

01:47PM 25 A. Not every day but, you know, we spoke regularly.

01:47PM 1 Q. Several times a week, correct?

01:47PM 2 A. Yes, a few times a week, yes.

01:47PM 3 Q. You called each other?

01:48PM 4 A. Yes.

01:48PM 5 Q. You texted each other?

01:48PM 6 A. Yes.

01:48PM 7 Q. You went to each other's house?

01:48PM 8 A. On occasion, yes.

01:48PM 9 Q. You worked out together?

01:48PM 10 A. Yes.

01:48PM 11 Q. You went to dinner together?

01:48PM 12 A. Not dinners much, no.

01:48PM 13 Q. You ate meals together?

01:48PM 14 A. Yeah, on occasion.

01:48PM 15 Q. Yeah. All right. And so you were around each other with

01:48PM 16 some frequency, correct?

01:48PM 17 A. Yes.

01:48PM 18 Q. And the only time that you recall him being at Pharaoh's

01:48PM 19 is just these two occasions that you testified to on direct,

01:48PM 20 correct?

01:48PM 21 A. Well, that's with me, when I went him.

01:48PM 22 Q. Okay.

01:48PM 23 A. I was there twice.

01:48PM 24 Q. All right. But you -- but you were around him with a lot

01:48PM 25 of frequency, right?

01:48PM 1 A. Yes.

01:48PM 2 Q. You were his best friend?

01:48PM 3 A. Yes.

01:48PM 4 Q. You were the best man in his wedding, correct?

01:48PM 5 A. Correct.

01:48PM 6 **MR. SOEHNLEIN:** Just a second, Judge.

01:49PM 7 That's all I have. Thank you, Judge.

01:49PM 8 **THE COURT:** Redirect?

01:49PM 9 **MR. TRIPPI:** Yes, Judge, thank you.

01:49PM 10

01:49PM 11 **REDIRECT EXAMINATION BY MR. TRIPPI:**

01:49PM 12 Q. All right. A few more questions for you, okay?

01:49PM 13 A. Okay.

01:49PM 14 Q. Okay. Just bear with me a minute.

01:49PM 15 All right. I'm gonna sort of start where Mr. Soehnlein

01:49PM 16 did and kind of go in the same order of things, okay?

01:49PM 17 A. Okay.

01:49PM 18 Q. He started with your cooperation agreement. As you sit

01:49PM 19 here today, is there any promise that you have, any wink and

01:49PM 20 a nod, anything like that, that you won't be charged or go to

01:49PM 21 jail?

01:49PM 22 A. No.

01:49PM 23 Q. Has anyone from the government ever said anything

01:49PM 24 different to you?

01:49PM 25 A. No.

01:49PM 1 Q. You have a written agreement, right?

01:49PM 2 A. Correct.

01:49PM 3 Q. And are you required to do anything other than tell the
01:50PM 4 truth under that agreement?

01:50PM 5 A. That's correct.

01:50PM 6 Q. Does your agreement require it?

01:50PM 7 A. Yes.

01:50PM 8 Q. If you weren't to tell the truth, could you be charged
01:50PM 9 with more things?

01:50PM 10 A. Yes.

01:50PM 11 Q. If you were to lie in front of this grand jury -- or,
01:50PM 12 excuse me, jury, you could be charged with perjury?

01:50PM 13 A. Yes, sir.

01:50PM 14 Q. Obstruction of justice?

01:50PM 15 A. Yes.

01:50PM 16 Q. All right. Now, you were asked about more cooperation
01:50PM 17 and all that. Fair to say you've also testified before a
01:50PM 18 federal grand jury and in other proceedings?

01:50PM 19 A. Yes.

01:50PM 20 Q. Fair to say that the scope of your testimony and
01:50PM 21 information you've provided spans well beyond Defendant
01:50PM 22 Gerace?

01:50PM 23 A. Yes.

01:50PM 24 Q. Now, when you were first approached by law enforcement at
01:50PM 25 your house the day of that search warrant, August 23rd, 2019,

01:50PM 1 did you start to talk a little bit about Mr. Bongiovanni?

01:50PM 2 A. Yes. Very --

01:51PM 3 Q. At that point, it wasn't everything you knew?

01:51PM 4 A. No. No.

01:51PM 5 Q. Did you withhold information like Mr. Soehnlein said?

01:51PM 6 A. Yes.

01:51PM 7 Q. And I think you tried to articulate it, but as time went
01:51PM 8 on, did you provide more and more information?

01:51PM 9 A. Yes.

01:51PM 10 Q. Were you asked more and more questions?

01:51PM 11 A. I was.

01:51PM 12 Q. Now, Mr. Soehnlein focused you in on that September 4th,
01:51PM 13 2019 polygraph, and talked about you failing.

01:51PM 14 I'm just gonna ask you directly. Did you fail because
01:51PM 15 you claimed you were Joe Bongiovanni's informant?

01:51PM 16 A. Yes.

01:51PM 17 Q. Okay. That was a lie?

01:51PM 18 A. It was a lie.

01:51PM 19 Q. That was a lie that Bongiovanni fed you?

01:51PM 20 A. Right.

01:51PM 21 Q. And you tried to carry through on it?

01:51PM 22 A. Correct.

01:51PM 23 Q. After that, did you become more and more forthcoming?

01:51PM 24 A. I did.

01:51PM 25 Q. Does that lead to your sitting in this witness stand?

01:51PM 1 A. It does.

01:51PM 2 Q. Now, Mr. Soehnlein crossed you about all your meetings
01:52PM 3 with the government from August 23rd, 2019 to October 25th,
01:52PM 4 2019; do you remember that?

01:52PM 5 A. Yes.

01:52PM 6 Q. You went through all those dates up through that point.
01:52PM 7 All of those meetings were before Mr. Bongiovanni was
01:52PM 8 charged, correct?

01:52PM 9 A. Correct.

01:52PM 10 Q. And did you testify in grand jury before Mr. Bongiovanni
01:52PM 11 was charged?

01:52PM 12 A. Yes.

01:52PM 13 Q. And all those meetings, did they cover a lot more
01:52PM 14 information than the questions you're being asked at this
01:52PM 15 trial?

01:52PM 16 A. Yes.

01:52PM 17 Q. Now, let's switch over, talk a little bit about Anthony
01:52PM 18 Gerace's arrest, and your discussions along those lines,
01:52PM 19 okay?

01:52PM 20 You were asked about the fact that you're an Erie County
01:52PM 21 sheriff, and are things documented in law enforcement; do you
01:52PM 22 remember those general questions?

01:52PM 23 A. Yes.

01:52PM 24 Q. Now you're not a member of the Amherst Police Department,
01:52PM 25 right?

01:52PM 1 A. I was not, no.

01:52PM 2 Q. Would you have access to anything that they generate?

01:52PM 3 A. No.

01:53PM 4 Q. Okay. Now, do you know whether Bongiovanni squashed any
01:53PM 5 arrest of Anthony Gerace before it ever happened?

01:53PM 6 **MR. SOEHNLEIN:** Objection.

01:53PM 7 **MR. TRIPPI:** He opened this door.

01:53PM 8 **THE COURT:** Does he know?

01:53PM 9 **MR. SOEHNLEIN:** Yeah, I withdraw it. I thought the
01:53PM 10 question came out a little differently.

01:53PM 11 **BY MR. TRIPPI:**

01:53PM 12 Q. Do you know whether Bongiovanni squashed any arrest of
01:53PM 13 Anthony Gerace before it ever happened?

01:53PM 14 A. No.

01:53PM 15 Q. If Bongiovanni squashed an investigation before it was
01:53PM 16 documented, there would be no report?

01:53PM 17 **MR. SOEHNLEIN:** Objection.

01:53PM 18 **THE COURT:** Sustained, sustained, sustained.

01:53PM 19 **BY MR. TRIPPI:**

01:53PM 20 Q. Okay. Now you were asked about finances; do you remember
01:53PM 21 that?

01:53PM 22 A. Yes.

01:53PM 23 Q. Mr. Bongiovanni's finances?

01:53PM 24 In your commonsense life experience, the money that you
01:53PM 25 were earning from illegal activity, did you put your illegal

01:53PM 1 money in the bank and report it?

01:53PM 2 A. No.

01:53PM 3 Q. Okay. In your commonsense life experience, do people put
01:53PM 4 money from illicit gains into the bank and then report it to
01:54PM 5 their attorney?

01:54PM 6 A. No.

01:54PM 7 Q. You were asked about respect to elders and respect to

01:54PM 8 athletes and stuff like that. Was the type of respect you

01:54PM 9 were talking about yesterday when you were talking about

01:54PM 10 Mr. Bongiovanni showing respect to reputed Italian Organized

01:54PM 11 Crime members in the neighborhood, was it a different type of

01:54PM 12 respect?

01:54PM 13 A. Yes.

01:54PM 14 Q. It's not the same hold-the-door-for-an-old-lady type

01:54PM 15 respect, right?

01:54PM 16 A. No.

01:54PM 17 Q. Back to the topic of helping people through his position

01:54PM 18 as a DEA agent. You were asked questions about you didn't

01:54PM 19 know what Bongiovanni meant when he said helping Anthony

01:54PM 20 Gerace when Peter asked him to help Anthony Gerace, and you

01:54PM 21 were asked some questions about law enforcement and whether

01:54PM 22 you were asked to help people; do you remember that?

01:55PM 23 A. Yes.

01:55PM 24 Q. All those questions?

01:55PM 25 A. Yes.

01:55PM 1 Q. As you sit here, given your life experience and your
01:55PM 2 interactions with Mr. Bongiovanni, is a sworn DEA agent
01:55PM 3 supposed to help individuals involved in drug dealing, or
01:55PM 4 arrest them?

01:55PM 5 A. Arrest them.

01:55PM 6 Q. You were asked a lot of questions about whether the first
01:55PM 7 time you mentioned Peter Gerace was in September of 2023
01:55PM 8 after four years of questions; do you remember that?

01:55PM 9 A. Yes.

01:55PM 10 Q. Do you remember all the times that you were asked
01:55PM 11 questions and mentioned Mr. Gerace or Pharaoh's?

01:55PM 12 A. I don't.

01:55PM 13 Q. Okay. I'm gonna ask you to take a look at Government
01:55PM 14 Exhibit 3540I. Let's start with page 1.

01:55PM 15 **MR. TRIPI:** For the witness only.

01:55PM 16 **BY MR. TRIPI:**

01:55PM 17 Q. All right. Just look at your screen. And when you're
01:55PM 18 done, look back at me. I'm gonna keep it up just because I'm
01:56PM 19 gonna walk through this a bit, but want you to not look at
01:56PM 20 the screen initially. Okay?

01:56PM 21 Does that refresh your recollection as to a date that you
01:56PM 22 had an interview?

01:56PM 23 A. Yes.

01:56PM 24 Q. Okay. You've got to look back at me.

01:56PM 25 A. Yes.

01:56PM 1 Q. Is that September 11th, 2019?

01:56PM 2 A. Yes.

01:56PM 3 Q. All right.

01:56PM 4 **MR. TRIPI:** Ms. Champoux, can we advance to page 6 of
01:56PM 5 that, please?

01:56PM 6 **BY MR. TRIPI:**

01:56PM 7 Q. Okay. We're gonna go to -- I want you to read page 6
01:56PM 8 through 7. Let us know when you're done reading page 6
01:56PM 9 through 7.

01:56PM 10 A. Where you've highlighted at the bottom?

01:56PM 11 Q. Yep.

01:57PM 12 A. Okay.

01:57PM 13 **MR. TRIPI:** Let's go to page 7, please.

01:57PM 14 **BY MR. TRIPI:**

01:57PM 15 Q. Read that to yourself.

01:59PM 16 A. Okay.

01:59PM 17 Q. Okay. To the extent you were just asked questions about
01:59PM 18 not talking about Peter Gerace for four years, was that
01:59PM 19 accurate?

01:59PM 20 A. No.

01:59PM 21 Q. Okay. Did you talk about Peter Gerace back on
01:59PM 22 September 11th, 2019?

01:59PM 23 A. Yes.

01:59PM 24 Q. Did you -- look at me, please.

01:59PM 25 A. Yes, sir.

01:59PM 1 Q. Did you talk about Pharaoh's?

01:59PM 2 A. Yes.

01:59PM 3 Q. Did you talk about Anthony Gerace?

01:59PM 4 A. Yes.

01:59PM 5 Q. Okay. Do you remember the next date you provided some
01:59PM 6 information about them?

01:59PM 7 A. I don't.

01:59PM 8 Q. Okay. Be fair to say a lot of the questioning early on
01:59PM 9 particularly was focused on Mr. Bongiovanni, though?

01:59PM 10 A. Yes.

01:59PM 11 Q. And then as time went on, it shifted to other people?

01:59PM 12 A. Yes.

01:59PM 13 Q. Okay. We agree that September 11th, 2019, is four years
01:59PM 14 earlier than September of 2023 that you were being asked
01:59PM 15 questions about, correct?

02:00PM 16 A. Correct.

02:00PM 17 Q. Okay. Now, over time, too, did things occur to you over
02:00PM 18 time?

02:00PM 19 A. Yes.

02:00PM 20 Q. Were some of those things that occurred to you over time
02:00PM 21 triggered by more specific questions you were asked?

02:00PM 22 A. Exactly, yes.

02:00PM 23 Q. Okay. Do you remember everything you talked about on a
02:00PM 24 meeting March 10th, 2021?

02:00PM 25 A. No.

02:00PM 1 Q. Okay. If we can go to Exhibit 3540M, please as in Mary.

02:00PM 2 And we'll go to page 2. Read that to yourself, page 2. Let
02:01PM 3 us know when you want us to move to page 3.

02:01PM 4 A. Okay.

02:01PM 5 **MR. TRIPI:** Can we go to page 3, please?

02:03PM 6 **THE WITNESS:** Okay.

02:03PM 7 **BY MR. TRIPI:**

02:03PM 8 Q. Did you provide information about Peter and Anthony
02:03PM 9 Gerace during that meeting in March of 2021?

02:03PM 10 A. Yes.

02:03PM 11 Q. Okay. Now, do you remember, Mr. Selva, do you remember
02:03PM 12 what specific questions you were being asked?

02:03PM 13 A. I don't.

02:03PM 14 Q. Do you remember if you were asked, hey, did you ever go
02:03PM 15 to Pharaoh's with Bongiovanni?

02:03PM 16 A. I don't know.

02:03PM 17 Q. Do you know when the first time you were asked that
02:03PM 18 specific question was?

02:03PM 19 A. I don't.

02:03PM 20 Q. Okay. Had that specific question been asked about you
02:03PM 21 and -- of you in September of 2019, would you have said two
02:03PM 22 times, just like you told this jury?

02:03PM 23 A. Yes.

02:03PM 24 **MR. TRIPI:** All right, Judge, I have no further
02:03PM 25 redirect.

02:03PM 1 **THE COURT:** Anything more, Mr. Soehnlein?

02:03PM 2 **MR. SOEHNLEIN:** Just briefly.

02:03PM 3

02:03PM 4 **RECROSS-EXAMINATION BY MR. SOEHNLEIN:**

02:03PM 5 Q. Mr. Tripi just asked you if you had been asked that
02:03PM 6 question in September of 2019, the answer would have been two
02:04PM 7 times, right? He just asked you that question?

02:04PM 8 A. Yes.

02:04PM 9 Q. Okay.

02:04PM 10 **MR. SOEHNLEIN:** Can you show the witness 3540I,
02:04PM 11 page 6, please.

02:04PM 12 **BY MR. SOEHNLEIN:**

02:04PM 13 Q. And reviewing these reports, it's refreshing your memory,
02:04PM 14 right?

02:04PM 15 A. Correct.

02:04PM 16 Q. And by the way, so, you'd agree with me that this is a
02:04PM 17 report from September of 2019, correct?

02:04PM 18 A. Correct.

02:04PM 19 Q. The exact same time period that Mr. Tripi was just asking
02:04PM 20 you about, correct?

02:04PM 21 A. That's correct.

02:04PM 22 Q. Can you just review the second line up what's written
02:04PM 23 right there?

02:04PM 24 A. Second line up?

02:04PM 25 Q. Yeah, the second line from the bottom. What's it say?

02:04PM 1 Well, does it refresh your recollection.

02:04PM 2 A. Yes.

02:04PM 3 Q. You told them Bongiovanni never went to Pharaoh's?

02:04PM 4 A. In 2019.

02:04PM 5 Q. In 2019, you told them Bongiovanni never went to

02:04PM 6 Pharaoh's, correct?

02:05PM 7 A. Correct.

02:05PM 8 Q. And in 2023, you told them that you went there with him

02:05PM 9 two times, correct?

02:05PM 10 A. Correct.

02:05PM 11 Q. So you lied in 2019?

02:05PM 12 A. No, he -- I -- I was referencing with me he went. He

02:05PM 13 went with me.

02:05PM 14 Q. So, when he went with you, that doesn't mean he went?

02:05PM 15 A. No, that's how I was answering the question, he went with

02:05PM 16 me.

02:05PM 17 Q. He went with you?

02:05PM 18 A. Right.

02:05PM 19 Q. But in 2019, you told them he didn't go at all?

02:05PM 20 A. Not with me in 2019, that's how I was referencing the

02:05PM 21 question.

02:05PM 22 Q. I'm sorry, but you said he never went at all in 2019,

02:05PM 23 correct?

02:05PM 24 A. Right, with --

02:05PM 25 Q. Never went ever, correct?

02:05PM 1 A. I believe the question was phrased if he ever went me.

02:05PM 2 And I --

02:05PM 3 Q. You'd agree with me that's not what's reflected in the

02:05PM 4 report.

02:05PM 5 A. That's correct.

02:05PM 6 Q. What you said in 2023 is not accurate, is it?

02:05PM 7 A. We went twice in Pharaoh's, him and I.

02:06PM 8 Q. So then what you said in 2019 is a lie?

02:06PM 9 A. It was asked a different way. He never -- I was

02:06PM 10 referenced if he went with me.

02:06PM 11 Q. It's not confusing, Mr. Selva.

02:06PM 12 A. I understand that --

02:06PM 13 Q. You're wrong --

02:06PM 14 **THE COURT:** One at a time.

02:06PM 15 **BY MR. SOEHNLEIN:**

02:06PM 16 Q. In 2019, you told them he never went to Pharaoh's,

02:06PM 17 period, correct?

02:06PM 18 A. Correct.

02:06PM 19 Q. And in 2023, you said he went twice with me, correct?

02:06PM 20 A. Correct.

02:06PM 21 Q. So what you said in 2019 was not accurate?

02:06PM 22 A. Not accurate that he went with me.

02:06PM 23 Q. You understand that you have to be truthful and honest in

02:06PM 24 those meetings?

02:06PM 25 A. I am. Maybe I answered it -- maybe I answered it wrong,

02:06PM 1 but he -- I was there twice with him.

02:06PM 2 Q. Now it's possible that maybe you got a little tripped up
02:06PM 3 in the questions, right?

02:06PM 4 A. Correct.

02:06PM 5 Q. Okay. Because those meetings, those are kind of high
02:06PM 6 stress, correct?

02:06PM 7 A. Correct.

02:06PM 8 Q. A lot's on the line, right?

02:06PM 9 A. There's a lot of questions.

02:06PM 10 Q. And you're with the same prosecutors that you're with
02:07PM 11 here, correct?

02:07PM 12 A. Correct.

02:07PM 13 Q. All right. Now earlier this morning, Mr. Tripi yelled at
02:07PM 14 you. You recall that, right?

02:07PM 15 A. Yes.

02:07PM 16 Q. That's happened before, hasn't it?

02:07PM 17 A. Yes.

02:07PM 18 Q. That's happened more than once, hasn't it?

02:07PM 19 A. A few times.

02:07PM 20 Q. You're in those meetings, and it's just you and the
02:07PM 21 prosecutors, right?

02:07PM 22 A. Yes.

02:07PM 23 Q. There's no judge there?

02:07PM 24 A. No.

02:07PM 25 Q. There's no jury there?

02:07PM

1 A. No.

02:07PM

2 Q. And they tell you to tell the truth, right?

02:07PM

3 A. Correct.

02:07PM

4 Q. But they act like that toward you, don't they?

02:07PM

5 A. They act professional.

02:07PM

6 Q. It's not the first time he yelled at you.

02:07PM

7 A. I mean, yelling and raising your voice, I mean, being
8 direct.

02:07PM

9 Q. Is that how you would describe how he treated you this
10 morning, being direct?

02:07PM

11 A. Being direct, yes. Raising his voice, yes.

02:07PM

12 Q. That's scared you when he did that, didn't it?

02:07PM

13 A. He got my attention.

02:07PM

14 Q. Yeah, because you've got a lot on the line, right?

02:07PM

15 A. Yes.

02:07PM

16 Q. And you weren't making him happy, were you?

02:08PM

17 **MR. TRIPI:** Objection as to whether he was making me
18 happy.

02:08PM

19 **THE COURT:** Overruled.

02:08PM

20 **THE WITNESS:** I don't know if I was making him happy
21 or not. He was just -- that's his demeanor. He was asking me
22 a direct question.

02:08PM

23 **BY MR. SOEHNLEIN:**

02:08PM

24 Q. That's just his demeanor?

02:08PM

25 A. At times.

02:08PM

1

MR. SOEHNLEIN: That's all I have.

02:08PM

2

RE-DIRECT EXAMINATION BY MR. TRIPI:

02:08PM

4

Q. Sometimes in those meetings, you were lying, right?

02:08PM

5

A. Yes.

02:08PM

6

Q. You were holding back information?

02:08PM

7

A. Yes.

02:08PM

8

Q. Did you expect direct questions when you were lying?

02:08PM

9

A. Yes.

02:08PM

10

Q. Were you doing the wrong thing?

02:08PM

11

A. Yes.

02:08PM

12

Q. When you've been yelled at before, is that because you

02:08PM

13

asked if you were gonna not have to go to jail?

02:08PM

14

A. No.

02:08PM

15

Q. Have I -- have I told you repeatedly your entire

02:08PM

16

agreement is in writing, and there are no promises?

02:08PM

17

A. Yes.

02:08PM

18

Q. When you ask me about that agreement, is that when I get

02:08PM

19

firm with you?

02:08PM

20

A. Yes.

02:08PM

21

Q. Do I remind you your agreement is in writing?

02:08PM

22

A. Yes.

02:08PM

23

Q. And that there are no promises?

02:08PM

24

A. Yes.

02:09PM

25

Q. Have I ever told you to do anything other than tell the

02:09PM 1 truth?

02:09PM 2 A. No.

02:09PM 3 Q. Now, are you a grown man?

02:09PM 4 A. Yes.

02:09PM 5 Q. When you're in those meetings, you're with your lawyer?

02:09PM 6 A. Yes.

02:09PM 7 Q. Do you have any issue with the way I speak with you or
02:09PM 8 the way you speak with me?

02:09PM 9 A. No.

02:09PM 10 Q. Okay. Sometimes do you raise your voice, too?

02:09PM 11 A. Yes.

02:09PM 12 Q. Is that sometimes how grown men speak to each other?

02:09PM 13 A. Yes.

02:09PM 14 Q. Okay. Any issue with that?

02:09PM 15 A. No.

02:09PM 16 Q. Any misconceptions about what you're supposed to say on
02:09PM 17 the stand in terms of truth or not truth?

02:09PM 18 A. No.

02:09PM 19 Q. Okay. Now, you were just shown a report. You didn't
02:09PM 20 write the report that you were shown, you didn't sign the
02:09PM 21 report, correct?

02:09PM 22 A. Correct.

02:09PM 23 Q. But you testified in grand jury about Mr. Gerace and
02:09PM 24 Mr. Bongiovanni, correct?

02:09PM 25 A. Correct.

02:09PM 1 Q. And then you testified at two other proceedings this
02:09PM 2 year, and you've been consistent about two times you went to
02:10PM 3 Pharaoh's with Mr. Bongiovanni; is that true?

02:10PM 4 A. That's correct.

02:10PM 5 Q. All right.

02:10PM 6 **MR. TRIPI:** Bear with me just a moment.

02:10PM 7 By the way, is it the U.S. Attorney's Office who
02:10PM 8 decides your cooperation, or is it me?

02:10PM 9 **MR. SOEHNLEIN:** Objection.

02:10PM 10 **THE COURT:** Sustained.

02:10PM 11 **MR. TRIPI:** He knows the answer to that.

02:10PM 12 **THE WITNESS:** It's the U.S. Attorney.

02:10PM 13 **THE COURT:** Mr. Selva, when I say "sustained," you
02:10PM 14 don't answer the question.

02:10PM 15 **THE WITNESS:** I'm sorry, Your Honor.

02:10PM 16 **THE COURT:** What's the basis of that?

02:10PM 17 **MR. SOEHNLEIN:** I believe it calls for speculation
02:10PM 18 and hearsay, Judge.

02:10PM 19 **THE COURT:** So lay a foun -- so the jury will strike
02:11PM 20 that answer. You can lay a foundation.

02:11PM 21 **BY MR. TRIPI:**

02:11PM 22 Q. Do you know who the ultimate decisionmaker is?

02:11PM 23 A. I don't.

02:11PM 24 Q. Do you think it's me, or someone above me?

02:11PM 25 A. Someone above.

02:11PM 1 **MR. SOEHNLEIN:** Same objection, Judge.

02:11PM 2 **THE COURT:** Well, unless there's a foundation for
02:11PM 3 that, Mr. Tripi, I --

02:11PM 4 **MR. TRIPI:** It's his perception, Judge.

02:11PM 5 **THE COURT:** I understand that. But he's got to have
02:11PM 6 a reason for the perception. So if there's a reason for it,
02:11PM 7 then lay the foundation for it.

02:11PM 8 **BY MR. TRIPI:**

02:11PM 9 Q. Do you have a reason in your brain for the answer you're
02:11PM 10 about to give when I ask you that question?

02:11PM 11 A. Yes.

02:11PM 12 Q. Okay. Is it a reason that you formed in your mind?

02:11PM 13 A. Yes.

02:11PM 14 Q. Do you believe that anyone in this room is the ultimate
02:11PM 15 decisionmaker on your case?

02:11PM 16 A. No.

02:11PM 17 **MR. SOEHNLEIN:** Objection.

02:11PM 18 **THE WITNESS:** No.

02:11PM 19 **THE COURT:** Overruled.

02:11PM 20 And, again, folks, this is for his state of mind, not
02:11PM 21 what is in fact the case, okay?

02:11PM 22 **BY MR. TRIPI:**

02:13PM 23 Q. When you testified in the grand jury, was that
02:13PM 24 October 3rd, 2019?

02:13PM 25 A. Yes.

02:13PM 1 Q. Were you asked questions about Mr. Bongiovanni?

02:13PM 2 A. Yes.

02:13PM 3 Q. Were you asked questions about Mr. Gerace?

02:13PM 4 A. Yes.

02:13PM 5 Q. Did you answer a number of specific questions you were
02:13PM 6 asked at that time about Mr. Gerace?

02:13PM 7 A. Yes.

02:13PM 8 Q. Did a lot of it cover a lot the same topics you testified
02:13PM 9 to here at trial?

02:13PM 10 A. Yes.

02:13PM 11 **MR. TRIPI:** Nothing further, Judge.

02:13PM 12 **THE COURT:** Anything more?

02:13PM 13 **MR. SOEHNLEIN:** Nothing, Judge. Thank you.

02:13PM 14 **THE COURT:** You can step down, sir, thank you.

02:13PM 15 **THE WITNESS:** Thank you, Your Honor.

02:13PM 16 (Witness excused at 2:13 p.m.)

02:13PM 17 (Excerpt concluded at 2:13 p.m.)

02:13PM 18 * * * * *

02:13PM 19

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02:13PM 21

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02:13PM 25

1
2 **CERTIFICATE OF REPORTER**
3

4 In accordance with 28, U.S.C., 753(b), I
5 certify that these original notes are a true and correct
6 record of proceedings in the United States District Court for
7 the Western District of New York on December 13, 2024.
8

9
10 s/ Ann M. Sawyer
11 Ann M. Sawyer, FCRR, RPR, CRR
12 Official Court Reporter
13 U.S.D.C., W.D.N.Y.
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